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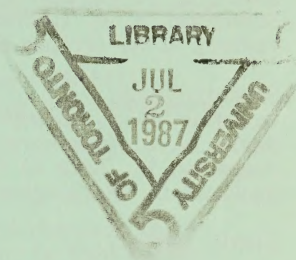






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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

RESIDENTIAL RENT REGULATION ACT

TUESDAY, AUGUST 19, 1986

Morning Sitting



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)

VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)

Bernier, L. (Kenora PC)

Cordiano, J. (Downsview L)

Epp, H. A. (Waterloo North L)

Knight, D. S. (Halton-Burlington L)

Pierce, F. J. (Rainy River PC)

Reville, D. (Riverdale NDP)

Smith, E. J. (London South L)

Stevenson, K. R. (Durham-York PC)

Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Callahan, R. V. (Brampton L) for Mr. Cordiano

Davis, W. C. (Scarborough Centre PC) for Mr. Bernier

Haggerty, R. (Erie L) for Mr. Epp

Jackson, C. (Burlington South PC) for Mr. Taylor

Clerk: Decker, T.

Staff:

Ward, B., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Cornell, W., Deputy Minister

Curling, Hon. A., Minister

Peters, F. H., Director, Rent Review Division

Church, G., Assistant Deputy Minister, Corporate Resources and Building  
Industry Development

Laverty, P., Director, Rent Review Policy Branch, Rent Review Division



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, August 19, 1986

The committee met at 10:12 a.m. in room 228.

RESIDENTIAL RENT REGULATION ACT

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: We have been assigned the task of dealing with Bill 51. I am pleased that we have the minister, who is just making his appearance, with us this morning. Welcome, Minister.

Hon. Mr. Curling: Thank you.

Mr. Chairman: I will introduce some members up here and then ask the minister and his deputy to do the same. To my immediate right is Todd Decker, clerk of the committee, and Maureen Murphy, who is with the Hansard office. Mr. Curling and Mr. Cornell, will you introduce the people who are with you?

Mr. Cornell: On my immediate left is one of the assistant deputy ministers from our ministry, Gardner Church.

Mr. Chairman: Before we get into Bill 51, there are a couple of procedural matters the committee must determine. I hope you will bear with us.

One is the request by a tenant umbrella group to have standing before the committee. This means that the group would take part in the process, particularly when it comes to the clause-by-clause debate which will be held later. It would be at the table, to be able to respond to and take part in discussion on various sections of the bill.

This has not been the tradition, although it has happened in the past with other bills. At a steering committee meeting of this committee some time ago, it was determined that this would not occur. Because of repeated requests, however, I have promised to bring this matter back to the committee as a whole to determine whether it wished to keep that policy or to change it.

The way it stands now, it will not be allowed, unless the committee overturns that decision. It is open for discussion to anyone who wishes to raise the matter.

Ms. E. J. Smith: I would be very glad to support the recommendation of the steering committee.

I believe we are most anxious to hear from every group. I certainly plan, as do other members of the committee, to give full attention to their concerns. However, to start establishing who does and who does not have special status would create unnecessary delay and division.

I would like to think there is no need for such a thing as special status. I move that no groups be given special status.

Mr. Chairman: Ms. Smith has put it forward in the form of a motion.

Mr. Reville: Speaking to Ms. Smith's motion, the tenant umbrella group has enormous expertise in the matter of rent review, particularly in terms of activity before the Residential Tenancy Commission. Its presence during the clause-by-clause stage would be most helpful to the committee; so I am speaking against the motion.

Mr. Chairman: Are there any other members who wish to speak to the motion to give the tenant umbrella group standing?

Mr. Jackson: It is an interesting revelation for the early start of this bill on this issue of standing. We have seen this issue raised before several committees. When the situation arose, I know the Conservative members of the committees were highly supportive of giving groups standing because they felt they would contribute to the final outcome in a positive way. Specifically at that occasion, both the NDP and Liberal members refused to support those requests. I am referring to the matters of Bill 54, Bill 55 and Bill 94. Bill 30 was the other one.

It is an interesting revelation and I am most anxious to see the outcome of the vote.

Mr. Reville: So am I.

Mr. Chairman: When members are thinking about how to vote on it, would they also keep in mind what their decision will be for other requests for special standing before the committee. Keep that in mind because I suspect we are not dealing with one request. We are now, but there could well be others.

Mr. Davis: On a point of clarification, could the spokesman for the NDP indicate to us whether other groups wish to have status at the table? Would he and his party be supporting that type of status? Mr. Chairman, you are correct. Depending on whether the vote was affirmative or not, other groups would ask for the same request. I am asking whether the spokesman for the NDP would also be supporting other groups that wish to come before this committee in that capacity.

Mr. Chairman: I cannot speak for any member of the NDP.

Mr. Davis: I am asking your spokesman, Mr. Reville.

Mr. Chairman: If other members want to join in the debate, they may do so, but I cannot speak for them.

Mr. Ramsay: I will bring another side to this. I would caution the committee. My feeling is the democratic process as expressed to the committee is that we hear all the different groups for as long as it takes until we get a fair understanding of the issues. Then, as legislators, we are to sit down and go through clause by clause and make amendments or proposals, whatever we need to do to this legislation, based upon what we have heard against our own perspectives of this piece of legislation.

No matter how knowledgeable a group is, that group represents one point of view, a view that I am sympathetic to, but I am neutral enough to feel that we will have other groups and it will slow down the process. As legislators, I



think we have to take our mandate, start going through it and come up with a good piece of legislation after we have heard everybody's views. We should not be having anybody in our presence while we do clause by clause.

Mr. Chairman: Any other comments before we vote on the motion?

Mr. Davis: As my colleague has already pointed out, this is indeed a revelation to someone who is new to the House and new to committee meetings.

Mr. Reville: New to the bill.

Mr. Davis: Mr. Reville, I can recall when the teachers, whom your party supports very strongly, asked to have that type of status. If I am not mistaken, it was your party which said no.

Mr. Reville: It was not the same person, though, was it?

Mr. Davis: In all the instances on the committees which I have served, it has been our party which has supported the application of groups to come before us to help us in legislation when some of us being rookies were not as aware of some of the intricacies as the minister and his staff would be. It will be an interesting vote.

Mr. Chairman: Thank you for that observation.

10:20 a.m.

Mr. Callahan: I have just one comment. It is inherent in the minister's opening statement that this bill was formed by two groups with a very fine balance. I would be afraid that in giving special status to any party, over and above another, one might interfere with that balance.

Mr. Chairman: Are there any other comments?

Mr. Haggerty: I want to make a few comments on the motion, which I support.

I suppose a reason for supporting it is that if you permit a special interest group to sit in with the committee, where do you draw the line? The next time, some other special interest group may want to sit on the other side. The first thing you know, the committee will be taken over by some outside special interest groups and the decisions not made by its members.

The committee should be independent, even of the minister's viewpoints, which may be expressed later on. I suggest that the minute you open the door this way, there will be just no end to it. You will lose complete control of the Legislature. I would not want to proceed in that manner.

Mr. Chairman: You have heard the motion of Ms. Smith that no group be granted special standing before the committee. Are you ready for the motion to be put?

All those in favour, please indicate. All those opposed? The vote is tied, which is absolutely delightful.

I would be remiss if I did not support the decision of the steering committee of this committee, which determined that there should be no group

with special standing, so I shall vote in favour of Ms. Smith's motion. The motion is therefore lost.

Before we proceed, there has been raised the question of--

Mr. Jackson: The motion is carried.

Mr. Chairman: I am sorry. The motion is carried.

Motion agreed to.

Mr. Chairman: Thank you, Mr. Jackson.

Mr. Pierce: You cannot vote one way and have it go another.

Mr. Chairman: That is right. Thank goodness.

Before we go any further, the question of the Workers' Compensation Board hearings has been raised, and I ask members to think about this. We do not have to make a decision this morning, as we sit here.

Originally, this committee was to deal with the public hearings aspect of Bill 51. Then, because of time restrictions and a commitment that we would deal with the WCB annual report during the last week in September and the first week in October, we would not proceed with this bill until our regular sittings resumed when the Legislature came back.

However, it has been proposed that we perhaps suspend the WCB hearing and deal with it when the House comes back, so that we can barrel right through with Bill 51 in clause-by-clause debate. As it is scheduled now, we would finish the public hearings of this bill, but there would be no time to deal with clause-by-clause debate.

I ask the members to think about that. If you want to make a decision now, fine, but if you want to hold off and discuss it further with your colleagues, we can make a decision this afternoon or even tomorrow morning. That would be appropriate as well.

Mr. Reville: In the absence of any evidence that the examination of the annual report of the Workers' Compensation Board is urgent, if it is of any assistance to members of the committee, it would be the view of the New Democratic Party that we should continue with Bill 51 until it is concluded. There should be no break in our deliberations on Bill 51.

Mr. Davis: If we could reserve our comments for this afternoon, Mr. Chairman, we would appreciate it.

Mr. Chairman: Let us not make a decision this morning then, because I do not believe it is the kind of decision that needs to be put to a vote. It would be nice if we could come up with a consensus on this. I would hate to break another tie so early in the day.

The schedule of hearings and travel arrangements for the committee have been distributed to the members. I hope there is no problem there. In the schedule of hearings in Toronto, which I believe you have, you will notice that the steering committee once again determined that, rather than not hear groups, we try to hear all groups and that the time allotted for each group be restricted within the time frame in which we are currently operating.



It is very tight in Metro with 15-minute presentation slots and will be very difficult to maintain, given the fact there will be questions and answers. I suggest we keep our minds open. On the present schedule we may have to sit a couple of days extra to get in the groups. We do not want to be unfair. On the other hand, we want to make sure everyone has an opportunity to appear before the committee. We should be aware that there may be problems.

Obviously, some of the larger groups will take more time. I raise this now because you should think about it when you are considering whether to deal with the Workers' Compensation Board before the House comes back or barrel through with this legislation. Keep that in mind when you are making that deliberation.

Mr. Pierce: Given the type of schedule we have for Toronto, will it not be a little unfair for some of the witnesses to come and possibly not be heard on the day they are scheduled and be asked back again? Would it not be better to set a schedule that we know is manageable?

Mr. Chairman: To go from a 15-minute schedule to a 30-minute schedule for each group, which is really what we are talking about, would mean doubling the time in Toronto where we already have two weeks of hearings. You will have to assist me in finding two more weeks of hearing time for the committee. That will be very difficult. Discuss it among yourselves as committee members and as caucuses.

Mr. Pierce: Maybe we could talk about it later this afternoon, but it does not look manageable from this side.

Mr. Chairman: We will put this first on the agenda this afternoon. Because of the complexity and importance of the bill, we determined that all members should be very comfortable with its content. That may sound strange if you have had a first reading of it. You may think you will never feel comfortable with it. However, if we get briefings from the ministry people today and tomorrow and hear from the Rent Review Advisory Committee, Ms. Hogan and Mr. Grenier on Thursday, perhaps we would all feel a little better about what is in the bill. When it comes to clause-by-clause debate, it will be important that we all know exactly what we are doing.

We hear from the ministry people today and tomorrow. It is my understanding the Minister of Housing has a few opening comments to make to the committee.

Hon. Mr. Curling: It is just wonderful to see the democratic process in full swing. I always feel very comfortable in an environment where you serve as chairperson.

Today we begin a detailed examination of a vitally important piece of legislation for Ontario, the Residential Rent Regulation Act, or Bill 51, as it will be known affectionately. During the coming weeks you will be discussing the provisions of this legislation, as well as receiving submissions from the public, as the chairman stated, in Toronto and several other cities. I have looked forward to these hearings for some time. I believe this legislation will stand as a benchmark for housing policy in Ontario, creating a flexible, responsive system of rent review, as well as contributing in long-term and constructive ways to Ontario's rental housing stock.

10:30 a.m.

The Residential Rent Regulation Act is forward-looking legislation, not only concerned with the landlords and tenants of today, but with the landlords and tenants of the future. This act is not just about rent review; it is about creating a stable and permanent housing environment where supplies of rental housing are adequate, where tenants can be assured of fair rental cost and proper maintenance.

In framing this legislation, we have dealt with the interests of both tenants and landlords, two groups that historically have been opposed to each other. In reconciling the interests of these two groups, we have achieved a middle ground that promises both protection for tenants and fairness to landlords. That achievement cannot be underestimated. It has been reached largely through the efforts of a very special group of people, the Rent Review Advisory Committee. This committee of nine landlord leaders and nine tenant leaders worked from January to April of 1986 to reach an agreement on implementing a new system of rent review that is both fair and acceptable to both groups.

It was a unique undertaking. Never before had tenant and landlord groups in Ontario sat down and attempted to work out their differences. And it was by no means easy. Compromises had to be made. Positions held by both groups for many years had to be re-examined and realigned. The tenants and landlords on that committee met for many days and nights to reach a consensus on the hundreds of issues that had to be resolved. After four months, an agreement was reached.

This agreement between tenants and landlords is central to the legislation this committee is about to consider. Indeed, I believe the continued participation of the Rent Review Advisory Committee is central to the future of housing policy in this province. The committee will continue to assist us in implementing this new legislation; for example, in beginning landlord and tenant education programs, in reviewing the Landlord and Tenant Act and a host of other areas. Quite simply, the Rent Review Advisory Committee is one of this province's most important assets and one that will be fully utilized.

Bill 51 was tabled in the Legislature on June 5, 1986. Since that time a number of people, both in and out of government, have looked at the legislation, picked out some aspect with which they disagree and criticized it as being either pro-landlord or pro-tenant. They are certainly not the first to fail to see the forest for the trees.

This is legislation that reforms virtually every aspect of rent review, from a new process for computing the guideline to a new process for applying to rent review itself. In addition, it introduces important new innovations, including the creation of a rent registry and the provision of a maintenance standards board. The entire system has been reformed. It is designed to stand as a comprehensive, seamless whole, finely balanced to provide the greatest possible equity to all whose interests are affected by it.

Mr. Reville: Hmm.

Hon. Mr. Curling: Even the member for Riverdale (Mr. Reville) is impressed by that.

Mr. Reville: I wanted to stand up and salute, Mr. Chairman.

Hon. Mr. Curling: You should.

One is tempted to examine individual facets of this policy, to take out its provisions one by one and criticize them in isolation. In beginning your deliberations, I urge you to consider the thousands of hours of intense debate and discussion that resulted in the legislation you have before you. As the rent review committee stated in a letter accompanying its report to me, "Whereas this report is presented as a package, any significant changes might undermine the integrity of the report and could jeopardize continued support of it by committee members."

I welcome the full scrutiny of Bill 51 by this committee, and I am very pleased that those who have not yet had an opportunity to contribute to the consultative process on this issue will now be enabled to do so. However, I would caution that if the members of this committee move to fundamentally alter key sections of this legislation, then the successful balanced interest it represents could be destroyed, and that would be a tragedy of immense proportions.

Each of the members of the Rent Review Advisory Committee had fixed policy positions, had interests to protect; yet as the committee's deliberations went on, each member came to recognize the need to consider not only his own interests but also the interests of the people of Ontario as a whole.

In the same way, I know that every member of this committee is dedicated, just as Mr. Reville is, in the last analysis to working to provide the people of Ontario with the fairest, most responsive and most equitable system of rent review that can be devised. For that reason, it is important that you examine this act in the same constructive spirit that led to its creation.

For the next two days, staff of my ministry will be available to explain the contents of this legislation. Staff will also be available during the course of the hearings to give more detailed presentations of any particular issues that arise here or during the clause-by-clause debate.

During the course of these hearings, I will be introducing amendments to sections of the legislation. I am pleased that together we will be travelling to various cities across Ontario. This will afford a wide variety of individuals and interest groups the opportunity to confirm and support the findings of the Rent Review Advisory Committee, which are at the core of this legislation.

I am confident that the members of this committee will swiftly develop a full appreciation of all the facets of Bill 51 and the way they fit together to provide a fair and fully comprehensive package of reforms.

Mr. Chairman, I want to thank you very much for allowing me this opportunity, and if you so wish, I will turn the proceedings over to the executive director of rent review advisory, Fred Peters.

Mr. Chairman: Thank you. Just before we proceed, I apologize. I did not introduce Beth Ward, who is at my far left up here. She is with the legislative research office and will be helping us, particularly when we get to the clause-by-clause study of the bill. Can we proceed with Mr. Peters?

Mr. Peters: Thank you, Mr. Chairman. Prior to beginning my remarks, I should point out that we experimented with various placements of the screen



for the purposes of the presentation. Fortunately, we found one that will give the members of the committee the best viewing. Unfortunately, members of the audience will not be able to see the slide presentation, although the text follows very closely the contents of the slides.

During the next two days we will be making a series of presentations on various aspects of the Residential Rent Regulation Act. The main features of the legislation include universal coverage; that is to suggest that it extends rent regulation to all privately owned residential rental properties in Ontario.

It contains a new process called administrative review, which we perceive as a marked improvement over the current system of applications to rent regulation. It includes provision for a strong rent registry, which will contain the legal maximum rents for residential rental properties, which will be accessible to both landlords and tenants across the province from our 21 field offices.

It also contains the key provision of a flexible guideline, which, while responsive to changes in inflation, changes at a rate less than in proportion to inflation. It contains as well an unfettered right of appeal to the decision reached through the administrative review process.

10:40 a.m.

It contains provision for a residential rental standards board, where findings of noncompliance can result in a direct impact on the rent chargeable by a landlord.

Key throughout the presentation to be given later is the concept of the balanced economic package for both landlords and tenants.

As the minister indicated in his comments, the central theme of the legislation is first to--

Mr. Pierce: Is there not a copy of the text of this presentation?

Mr. Chairman: Mr. Peters, are there copies of this text around?

Mr. Peters: I do not believe there are copies of the text. There are copies of the slides.

Mr. Reville: There are some stone tablets that are available.

Mr. Chairman: I think we are talking about copies of this. Where are they?

Mr. Peters: To your immediate right.

Mr. Chairman: We will distribute these. Thank you.

We are ready, Mr. Peters.

Mr. Peters: As I indicated, the central theme of the legislation is protection for tenants and fairness for landlords. The presentation agenda will not be clause-by-clause. Rather, the presentation has divided the act into major topic areas which may result in what I hope will be only minor overlap in some of the presentations. On the whole, though, it was perceived



that it would be easier for members to follow the presentation on the broader topic areas. To assist the committee members, the structured presentations have a logical break point, at which point we would be more than happy to answer any questions that arise out of that presentation.

My presentation begins to look to one of the fundamental features of the proposed statute, which is the administrative review process. During the broad consultation process that preceded the development of the legislation, both landlords and tenants indicated they would like to see a major improvement in the process of rent regulation.

In our judgement, one of the most basic improvements to that system is the administrative review process which, as I mentioned earlier, is a key facet of Bill 51. We believe the system will be faster. In other words, decisions will be reached more quickly. The system removes the adversarial nature that was indigenous to the last system. It was directed towards making the law easily understood by both landlords and tenants. It is accessible to both landlords and tenants. We believe the system to be both fair and effective.

As I mentioned earlier, we are calling this new system "administrative review." So that members of the committee can fully appreciate the system, I propose to walk through it on a step-by-step basis to show you how it is intended to function. It will work on a landlord and/or tenant application.

The first step is the filing of an application at one of the 21 local rent review offices throughout Ontario. If either party, landlord or tenant, has some difficulty in filling out the application, help is readily available for them at that local office. In addition, they will have had the benefit of acquiring information from the rent registry. I should point out that is totally accessible at no cost to the landlord or the tenant.

Once filed, the application becomes the responsibility of a local rent review administrator. For continuity and clarity of understanding, the administrator is responsible for that application from the start of the process to its conclusion with the issuance of a decision.

Through that process, there are extensive opportunities for the applicant to meet with the administrator at a local meeting, if required, or at a seminar. One of the principal duties of that administrator throughout the process, as I mentioned earlier, is to make sure that both the applicant and the respondent understand what the law allows.

Through the process, the rent review administrator will be meeting with both the tenant and the landlord and dealing with their questions, any problems that may arise and any inquiries that may come about. I would again stress the educational responsibility of the rent review administrator. It is fundamental to the process to have a better understanding of what the law is and how it functions so both parties can move more quickly towards a decision. To assist in that, it is our intention to maintain convenient office hours in the 21 local offices. Those hours will be established to be sensitive to local requirements.

We hope that when it is received, the application will contain all the necessary information so the rent review administrator can begin to meet with both the landlord and tenants. If the landlord application is for a rent increase, all the background data, the cost-revenue statements, should be filed with that original application.

A significant improvement is that information now is available to tenants for a minimum of 50 days. During that 50-day period, the tenants can review the documents provided, ask questions of the rent review administrator and may make representations orally and/or in writing or ask for a meeting with the landlord to discuss issues which in their judgement have arisen out of a review of that application. All this activity takes place with the administrator and the local office staff helping and advising both parties.

During this 50-day period, the administrator is also obtaining any further information required to achieve a full understanding of all the issues involved in the application. If either the landlord or the tenants require additional time, they can make a request to the administrator for an extension of the relevant time limits.

The overall aim of the process is to ensure that both landlords and tenants fully understand and appreciate the issues involved, have unfettered access to the documentation provided in support of the application and can discuss the issues involved with each other and with the administrator.

The administrator's review of the information provided is subject to clear-cut regulations and guidelines that will be applied consistently across the province.

Under the statute as proposed, the administrator must render a decision 15 days prior to the date that the first rent increase would take effect. If for some reason the administrator is unable to make the decision within that time limit, he must advise all parties on the reason for the delay and indicate when that decision will be forthcoming.

10:50 a.m.

From the start of the process to the end, it is anticipated that a 90-day period will elapse. This 90-day period will be maintained even if an application is held until the last moment. To assist in our achieving that time frame consistently--and by that I simply mean not sending out notices indicating that we are unable to make a decision because of a lack of information--we will tend, through our educational program, to encourage landlords to discuss their appropriate needs and to submit a complete application well before the date the first rent increase is to take effect.

All parties to the application will receive a copy of the decision. If a decision leads to questions, a local rent review administrator will be available to get answers to those particular questions. The decision rendered by the rent review administrator will take effect at the time the first rent increase is scheduled. That decision remains in effect if an appeal of the decision is launched. The appeal procedures will be discussed in detail in another section of the presentations today and tomorrow. As I mentioned earlier, anyone can appeal a decision to the Rent Review Hearings Board, and the appeal will be held as a formal hearing under the Statutory Powers Procedure Act.

In total, we feel that the system as proposed is a significant improvement on the current process. As I mentioned earlier, the system was developed after extensive consultations with both landlords and tenants. In those consultations and discussions, the old system was characterized as being adversarial; for some, frankly, intimidating. It was also lengthy. It suffered from a high degree of uncertainty in some cases. The time to review material

was limited to 14 days. There was little or no opportunity to meet the commissioner in advance, and submissions were made once, in a formal setting.

In contrast, the new system is fast, non-adversarial and easily understood. The key features of the system involve rent review administrators, very clear regulations and guidelines, the opportunity for frank discussion between landlords and tenants, increased opportunities for input from both parties and significant improvements in the time available to both parties to review the information filed in support of the application, all of which is reinforced and supported by a comprehensive landlord-and-tenant educational program.

At this point, I would like to pause and ask whether any members of the committee have questions on the administrative review process.

Mr. Chairman: I have had a couple of indications already.

Mr. Reville: Can you tell us what kind of establishment is contemplated in dealing with administrative review--how many rent review administrators, what kind of support staff, what kind of annual budget, where the offices are located, that sort of stuff?

Mr. Peters: In terms of the offices, there are 21 local offices throughout the province. At this point, it is not intended to relocate any of the existing offices, subject to a continuing work load analysis as it develops under the new system. Currently, offices are located in Barrie, Hamilton, Kingston, Kitchener, London, Mississauga, North Bay, Oshawa, Ottawa, Owen Sound, Peterborough, St. Catharines, Sudbury, Thunder Bay, Timmins and Windsor. There are offices as well within the Metro area, in East York, Etobicoke, North York, Scarborough, and an office in central Toronto servicing the city of Toronto.

We are in the process of establishing a complement. We have sufficient budget funds authorized for fiscal year 1986-87 to staff the various regional and local offices. We have assumed from the volume of application flow that the largest offices will be located in Ottawa and Toronto, where, based on our history, we expect to receive a fairly significant volume of applications from both landlords and tenants.

I am sorry, Mr. Reville. I cannot remember all the specific questions you asked. We will probably end up, all told, with about 289 employees throughout the rent review process.

Mr. Reville: Is that a net increase of 289?

Mr. Peters: No.

Mr. Reville: It is a net increase of how many?

Mr. Peters: I do not have that information readily available. I will bring that back to you.

Mr. Church: I know it is under 100, but we can get the actual figures.

Mr. Reville: Thank you. I do not have any more questions on that aspect. Maybe someone else does.



Mr. Callahan: You have mentioned that even if the procedure of filing the documents by the landlord is made on the 89th day, the rent decision will be made on the 90th. Is that what you said?

Mr. Peters: We have 90 days in which to render a decision. We intend to register that decision 15 days prior to the rent increase date. The reason for that is simply so that the landlord can notify tenants that the rent increase sought has been approved and so on. Essentially, it means that the 50-day period, assuming all the material is prepared, should be ample time to do the assessment, to ascertain the positions of both the landlords and the tenants and to provide additional information. Counting up, that leaves 25 days in which the rent review administrator can review the material, assess the guidelines as they apply to the application and the regulations and render that decision.

The longer time you have the better, I suppose, but we are confident that the 90 days will be sufficient time. As I mentioned, if we are unable to meet that 15-day period, we will be required under the act to notify both parties and indicate when the decision will be forthcoming.

Mr. Callahan: I may be getting ahead of myself. What machinery is there to ensure that all the material is filed so that you can meet that deadline?

Mr. Peters: With the passage of the act, we will go on and introduce a comprehensive educational system with both landlord and tenant groups to make sure they are aware of the requirements of the act in the provision of information. Our hope and our belief are that over a period of time, because of the way the act is structured, both sides will have a clear understanding of what information is required. As I mentioned in my presentation, the rent review administrator will be there to assist them in making sure their applications are complete. At least initially, making sure the information is complete as soon as possible may be a significant activity.

Mr. Callahan: The thrust of my question was, if one or the other of the parties wanted to drag his feet, is there a mechanism in the act to say, "Ninety days, that is it," or to require that the material be submitted?

11 a.m.

Mr. Peters: To take it from the landlord's side for the moment, if one is assuming that the application is filed for an increase in rent higher than the applicable guidelines permit, if the information is not complete, we cannot proceed with the application. Consequently, the rents could not be raised except by the guideline level. If there were a tenant challenge disputing the intended rent increase, they would make sure they have had the ample opportunity to review the information. There is almost a built-in incentive for both parties to provide whatever information they have. From a tenant perspective, if no information is provided to challenge the intended rent increase, that obviously presents some difficulty to the administrator in assessing what the tenant concerns are. On balance, there is a built-in incentive for both parties to make sure the information is complete and timely.

Mr. Jackson: I have a supplementary to Mr. Reville's questions about the staffing components of these offices. My question has to do with the fact that the minister has seen fit in his wisdom to draft a piece of legislation which provides no protection to the employees in these offices who currently



administer the act. I wonder whether it is contemplated that they will be staying, if they have the skills necessary to move from what we refer to as an adversarial system to a mediation-arbitration process, and whether your intentions are to encourage any form of protection for those employees.

Mr. Peters: The staffing of the division as proposed under the statute has proceeded on a number of principles established some time ago. In broad terms, this means that for positions, where the job content is the same, made available within the proposed structure--and I am talking now about the administrative side--those positions most probably will be done simply on a sliding basis.

In other words, if you are in a certain classification and position under the old system and there is the same position under the new, you will simply be assigned that position. A very strong commitment has been given to take care of the employees currently employed at a staff level of the Residential Tenancy Commission.

Other positions for which there are no directly comparable positions within the existing Residential Tenancy Commission have been put out to competition. Those competitions, however, have been limited to Ministry of Housing staff, which, I should point out, now includes the Residential Tenancy Commission staff. At this point, a number of individuals from the Residential Tenancy Commission have been successful in those competitions.

Mr. Jackson: I am somewhat confused by this response, given that you have just described a process which you contend is changing radically. Therefore, I assume that the job descriptions for the employees in those offices will change somewhat.

Mr. Peters.: Sure.

Mr. Jackson: Given that the bill provides no protection for any of these employees, which jobs are going to be saved? Are the clerk-typists going to be saved? Could all the previous rent review officers or administrators be replaced under the current legislation? I am just trying to get a handle on that aspect.

Mr. Peters: Clearly, there may be new positions for which are no comparable positions within the Residential Tenancy Commission. It is our hope that, as we go through the system, all employees within the Residential Tenancy Commission will have an opportunity to apply for and receive those positions. There are obviously people within the Residential Tenancy Commission who, with their skill base, can move across and become rent review administrators. One has to admit the possibility that it will be a change for them, certainly, in terms of emphasis, but they are knowledgeable about the process. They have done file preparation work.

Again, when one changes the system, one has an obligation to make sure that the staff are taken care of and educated under the new system.

Mr. Jackson: Is there or is there not job protection? If you say you have an obligation to the staff that moves over? I cannot get a handle on whether you are protecting them. Are you going to retrain the existing staff and provide them with positions or are you going to, as you refer to it, slot in those who are acceptable and put out to competition all other positions?

Mr. Peters: First, there are two elements. One is that in staffing for the division, it is certainly our intent to take every step necessary to guarantee that people who want to work within the division have the opportunity to do so. If that requires an educational program and significant retraining, we are quite prepared to do that.

When I talked about slotting, there are provisions under the various collective agreements that govern this slotting provision, and obviously we would function in accordance with that application. Positions that are clearly identified as promotional opportunities are restricted. The result of that is to provide additional opportunity for incumbent staff to seek a promotion within the division. As I said earlier, many of the staff who are now within the division have applied for and received positions, and worked within the Residential Tenancy Commission previously.

Mr. Davis: I have a couple of question. Again, I want to pick up on the line of Mr. Reville. How many rent review administrators will there be?

Mr. Peters: As I mentioned, I do not have that specific figure with me. I will bring it back to the committee this afternoon.

Mr. Davis: Would I be correct in assuming that there will also be what one might want to call regional supervisors, who currently are not in existence--or are they in existence?

Mr. Peters: There are regional commissioners under the current Residential Tenancy Commission. Under the rent review division, as proposed, we anticipate having four regional managers, who will be responsible for the support of the local rent review offices. Their function is more on the management side, the overseeing of the educational component and the compliance function that those local offices will have. Four regional offices are proposed in Ontario to oversee the 21 local rent review offices.

Mr. Davis: Would the regional managers be included in those 289 employees or are they above that?

Mr. Peters: No. The figure we will bring back will be an absolute figure, including the staff of the rent review division.

Mr. Davis: With respect to the tenants--and I just use those as an example--can they challenge any rent increase?

Mr. Peters: No.

Mr. Davis: What occurs at the end when the rent review administrator renders his decision? I am just exploring it. Is there an appeal process for the tenant or the landlord after that?

Mr. Peters: Yes. That will be elaborated on in part of the presentation.

Ms. E. J. Smith: Elaborating on Mr. Callahan's question, I heard you to say that either side can request extra time. Generally speaking, I would assume that would not be the applicants, because obviously, since they have applied, they are going to be moving things along, as you say. The statement that either side can request extra time seems to go contrary to the notion that the whole process will be speedier. Could you put that concern at ease?

11:10 a.m.

Mr. Peters: There are probably two ways to address that issue. It is hoped that, as I mentioned, the system will be faster. When I talked about the possibility of requesting an extension of time, it was for the purpose of providing additional information so that the rent review administrator could render a decision. I hope the request for an extension would not be used, nor would it be accepted if it were so used, as an attempt to sabotage the system and delay a decision being reached. Obviously, some assessment will have to be made when a request for a time extension arises. I think they would be handled on that basis. We hope it will not be used by either side as an attempt to delay the process of rendering that decision.

When the rent review administrator receives a request, he will have to balance that request against the requirement to go through the process. It is not intended to limit input, but it is also it not an attempt to sabotage the system of administrator review.

Mr. Callahan: Does it not say where it is not unfair to do so under subsection 18(5), so there really is a test--

Mr. Peters: Yes.

Mr. Callahan: Then you can attach terms of additions to the extensions there.

Ms. E. J. Smith: In any case, I would hope this would be looked at in a strict way. I would assume it would be.

Mr. Chairman: Anything else?

Mr. Church: Mr. Chairman, in answer to Mr. Reville's question on the aggregate numbers, 68 more employees are planned within the ministry than are currently employed by the board. In addition, there will be an appeal structure depending on the volume of appeals; that could produce up to 100 more positions.

As Mr. Peters mentioned, more detailed information will be made available to answer Mr. Davis's question.

Mr. Jackson: That begs a question. When you say 68 employees for the ministry, are those for the district offices, the field offices or whatever they are called, or are they for the ministry?

Mr. Church: They are principally for the field organization of the ministry division. The head office is relatively small in terms of the total construction.

Mr. Reville: On another matter that was raised by Mr. Peters in terms of the landlord and tenant education program, I do not think anybody asked a question on that, but I would like to. I assume that program is not mandated by the legislation; it is a program of the ministry. I have seen a number of references to it in the material, but I do not recall a section of the bill itself that sets up the educational program. Am I correct in that?

Mr. Peters: It is covered under clause 11(c), in which the minister shall "take an active role in ensuring, by any suitable method, including the



making of grants, that landlords and tenants are aware of the benefits and obligations established by this act."

Mr. Callahan: It is under clause 11(a) as well.

Mr. Reville: Have you designed how you are going to deliver the program, what its cost will be and who the educators who are contemplated actually are?

Mr. Peters: It is not fully blown yet, but it is one of the issues that the Rental Housing Advisory Committee, through its education subcommittee, is still advising us on how it sees it structured and what process one should follow.

Mr. Reville: In the interest of saving time, perhaps I could request the ministry to table what outline it has developed or is developing on the advice of the Rental Housing Advisory Committee and we can look at that later.

Mr. Chairman: Okay, Mr. Reville. Mr. Peters, can you proceed with your presentation?

Mr. Peters: Thank you, Mr. Chairman.

At this time, I would like to proceed to an outline of the residential rental standards board, which is a new feature contained in the legislation. As I mentioned, the act provides for the establishment of the residential rental standards board, which will set appropriate province-wide minimum maintenance standards for all residential rental complexes.

The board will also be responsible for the establishment of methods to ensure that both landlords and tenants are aware of the relevant standards with the view to guaranteeing that residential rental complexes are maintained in a fit condition. We will also provide opportunities and talk about methods of ensuring that dialogue occurs between landlords and tenants on proposed capital repairs and/or improvements.

When the board has established the provincial standards, the municipalities are responsible for the administration of those standards.

In terms of procedure, if upon examination it is found that a rental building is not in compliance with the standards, provision in the act allows for the rent review office to be notified. At that point the application, if launched by a landlord, would not be considered unless the noncompliance was beyond the landlord's control. When the required repairs are completed, notice would be forthcoming through the rent review office and the landlord can again apply for rent review.

The chief principle that arises out of the residential rental standards board is that failure to comply has a direct effect on the rent to be charged, which the tenant has to pay. There are provisions to be introduced by amendment that will allow for a recoverable stay of that rent increase as well as a forfeiture if there is a flagrant disregard of the order issued.

As I mentioned, the chief principle is that the standards will be clear, and if there is noncompliance, it has a direct effect on the rent chargeable.

At this point we would like to move into a discussion of the rent regulation process.



Mr. Chairman: Mr. Reville, do you have a problem?

Mr. Reville: I was wondering whether anybody has any questions on the standards board; I certainly do. If it is the pleasure of the committee, it might be the right time to ask them.

Mr. Chairman: Go ahead.

Mr. Reville: Have you some notion of from where the standards are going to come, or are they going to be developed?

As you know, Mr. Peters, there is a rather confusing set of housing standards, Ontario Building Code standards, bylaws and what not, and I understand your department is going to do some work on that, for which we would be grateful. Are the standards going to be developed in terms of the kinds of things the average building inspector would pick up on a tour? Would they have to do with the shine on the floor, the hole in the wall and that kind of stuff?

Mr. Peters: The actual development of the standards in terms of the content is one of the tasks still under way by the maintenance subcommittee of the Rental Housing Advisory Committee. They have been exposed over the past two and a half months to a number of presentations by staff of the ministry and staff of municipalities to acquaint them with what provisions for standards currently exist under various statutes.

They are attempting to examine those in some detail and assess their adequacy, and then we hope they will come to some agreement on appropriate and applicable standards that are clear and enforceable but do not result in needless duplication of function. As you probably can recognize, that is indeed a task. They are referencing the other initiatives currently under way by the ministry in such things as the property standards review and so on.

Mr. Reville: Will they be in a regulation? I see some nodding.

Mr. Peters: Yes.

Mr. Reville: Have there been discussions with either the Association of Municipalities of Ontario or the Ministry of Municipal Affairs about the additional responsibilities that will be undertaken by municipal officials and how the discharge of those responsibilities is going to be paid for?

11:20-a.m.

Mr. Peters: There have been discussions with the executive of AMO as to the concept of residential rental standards and their enforcement at the local level. What has yet to be discussed further is what the standards are and the best way they should be developed and implemented at the local level. At this point, in the absence of that fully blown product called residential rental standards, I assume it would be premature to talk to our colleagues at AMO. However, we will entertain those discussions once we have a fully blown product.

Mr. Church: It should be noted that the Minister of Municipal Affairs (Mr. Grandmaître) has promised the executive of AMO that once these are developed, we will enter into discussions with AMO on those very points.

Mr. Stevenson: Has the idea been received favourably by the municipalities?

Mr. Peters: I believe so. Let me rephrase that--

Mr. Stevenson: So it is not another beer and wine in the grocery stores sort of thing.

Mr. Peters: I believe the concept has been well received. Obviously, as we proceed through the piece and enter into the negotiations with them as to what the standards are, their concerns will be fully addressed by us. As I mentioned, it is the intent to avoid any needless duplications, to have clear standards that are enforceable.

One of the key concerns that came up during the discussions with the members of the Rent Review Advisory Committee in general was that if the intent of the standards was to be clear, we should make sure that needed repairs were done. I do not think it was ever the intent to make them so obscure as not to be understandable or enforceable. That is a challenge that committee is still working at with some diligence. It is a fairly significant area to address in terms of the standards, how they should be enforced, what is the appropriate content and so on.

Mr. Callahan: Dealing with my concern, I did not notice anything in there about how you trigger that mechanism. In my municipality, as I am sure in many municipalities, we have bylaws that, because of the lack of complement of enforcement officers, are done by complaint. However, I notice under subsection 114(7), regulations are to be made as to how that is done. In the formulation of those regulations, I hope the tenant himself or herself will have the opportunity to be able to trigger that mechanism in a very informal way. If the council has to act on that information, it could delay the time within which the notice would be sent to the minister, therefore blocking the application for an increase by the landlord, which is the crunch or the key to get it done.

Mr. Jackson: My supplementaries were in the same area. My question is more to the minister. Has he checked with the Minister of Municipal Affairs with respect to this point, and has he worked out an appropriate framework to deal with this matter, or is it being left in the hands of the ministry officials?

Hon. Mr. Curling: I have had many discussions with the minister in this light since the Rent Review Advisory Committee found it a very important aspect of the bill. The matter was raised in detailed discussions with both the minister and the AMO, as Fred Peters has indicated. As to the defined rules, they are being worked out and discussed.

Mr. Jackson: The minister is indicating there has been greater discussion than Mr. Peters has indicated. I wonder if he could enlighten the committee.

Hon. Mr. Curling: I did not say greater discussion. You asked me if I have spoken to and had discussions with the Minister of Municipal Affairs, and I am confirming that we have had in the initial stages. Further than that, I am sure there have been more detailed discussions.

Mr. Jackson: My final question is, would it not be in the best interests of the committee's activities if we were to specifically ask AMO to

assist the committee with a response in this area? As I understand the way public hearings are set up, the primary focus of those hearings would be landlord-tenant based in terms of reactions. Given that we will be in Windsor and in a variety of communities around the province, would it not be appropriate for the clerk of the committee to be directed to advise AMO that the committee would appreciate specific input in this area? That would be a trigger for AMO to provide some response during the public hearing process as opposed to clause-by-clause several months down the road.

Mr. Chairman: There would be nothing untoward in asking AMO to make a presentation to the committee, if that is the wish of the committee.

Mr. Jackson: If you want my request in the form of a motion, okay. I do not know how formally you wish to conduct this. My suggestion is that we direct the clerk to write but we specifically refer to this section which has been raised now as an area of concern to ensure that adequate dialogue has been involved with the municipalities.

Mr. Chairman: All right. Let us not put it in the form of a motion. It will only end up in a tie anyway. We can ask AMO to make a presentation. You wish it specifically in regard to the standards question.

Mr. Jackson: In general, but then specifically, would they respond to the concept of regulations set out by the minister with respect to municipal standards and enforcement? Both aspects of it are of concern.

Mr. Chairman: All right. We can ask them either to arrange a time before the committee or to give us their thoughts in writing, which could be distributed to the committee.

Mr. Pierce: Are the appropriate minimum province-wide maintenance standards going to be another set of regulations beyond the property maintenance standards bylaws that are already under the control of municipalities? Are they going to go beyond the regulations of the Ontario Building Code and the National Building Code? Are they going to be in concert with them, or is it another set of standards we have to work with in the construction and maintenance of tenant residences?

Mr. Church: I wonder if I might answer that question. The whole issue of standards is under detailed review at the moment. As you may know, there are essentially three different levels of standards impacting upon the maintenance and construction of buildings: the building code, the fire code and municipal property standards. In addition, there are no fewer than 280 other provincial statutes that impose obligations on builders and property managers.

It is certainly our intention, not under the guise of this bill, but it is our intention and it is a stated government policy, and has been for several years, to ensure that all those regulations become a compatible network. There is currently a great deal of conflict. Some builders will tell you that you cannot build a building and build it legally in Ontario. There is a measure of truth to that. There is no question that this will add to that network. There is a commitment to ensure that it does it in a way that is compatible with existing property standards, in particular the National Building Code.

Mr. Pierce: Your second point is that you want to ensure that landlords and tenants are aware of the maintenance standards requirements. My



question is, what kind of a mechanism is to be adopted to make sure everybody is aware of them? A lot of people out there right now do not know what the requirements are or what standards are necessary. Are we going on a massive, province-wide, door-to-door campaign to make sure everybody is aware of it? Those are nice words, but how do you trigger it?

11:30 a.m.

Mr. Peters: As I mentioned earlier, through the educational process we plan on introducing. It is also important to recognize that through the consultation process and through the deliberations of the Rent Review Advisory Committee, we have generated a number of contacts with both landlord and tenant associations and groups around the province. Obviously, we would exploit all those opportunities to make sure the appropriate individuals are aware of the standards through mailings, seminars and so on and through the whole process of the administrative review itself.

Mr. Pierce: Again it will be interesting to see how it works, but I know a lot of tenants out there--and I am going to be a little bit parochial--from the rural area are not as in touch with what is going on in the province as the major builders and landlord and tenant associations in the metropolitan area. Getting the message to them is not quite as simple as contacting the chairman of an association or the president of an individual group. It will be interesting to see how we get the message.

The other thing that concerns me is the dialogue between the landlords and tenants. How do you do that when your rent registry offices are anywhere from 150 to 300 miles away from the landlord and tenant?

Mr. Peters: One of the features of that administrative review process is to make sure the landlord and tenant talk to each other, that there is that dialogue. Obviously, the process itself encourages that sort of interchange between the landlord and the tenant.

In one sense, and a very real sense, both the landlord and the tenant have a vested interest in maintaining the property: the landlord from the perspective of safeguarding his or her capital investment and the tenant from having a safe and comfortable home in which to live. I think there is a mutuality of interest. The system itself is directed towards assisting both parties in recognizing that mutuality of interest and, as I said earlier as well, removing it from a confrontation issue to one of solving the problem if there is one.

Mr. Stevenson: Just to clarify my understanding here, did you say that if a building is not up to standard, no application for rent increase can be applied for?

Mr. Peters: It is not automatic. Subsection 15(5) says it cannot be proceeded with unless one of two conditions apply: (1) that "the minister receives a notice under subsection (4)" that there is compliance or (2) that "the minister or the board, as the case may be, determines that the noncompliance arose by reason of matters beyond the control of the landlord or that for any other reason the application or appeal ought to proceed." It is permissive in a sense.

Mr. Stevenson: You then went on to say, or at least I understood you to go on to say, that to whatever degree there was lack of compliance, it would show up in the rental increase to be allowed. Are you saying if there is

something relatively minor that the local building inspector or local administrative officer would like to see changed or felt was not absolutely necessary, that would affect the degree of--I am a little bit confused here on when this is allowed to go ahead.

Mr. Peters: It is not the intent. If a very clear violation of that minimum standard is obvious to the landlord, the tenant and the appropriate official, then that has a direct impact on the rent. It is not to allow a sort of wish list to be developed that is not in violation of the standard and to use that as an argument to withhold a rent increase. There would have to be a significant element of noncompliance.

Provision exists in other sections of the statute which will be addressed in subsequent presentations about the remedies available if there is a change in the level of maintenance in that building. We are talking here about significant violations of those standards. It is not meant to be an opportunity to delay, subvert or sabotage the system. In our discussions with the landlords and tenants, what one wants to achieve is the attainment of those standards and getting things fixed if they are required to be fixed for the safety and security of the building.

Mr. Stevenson: Could you give me one or two examples of something that would be severe enough to be viewed as noncompliance and one or two examples of things that, to use your words, might be on a wish list that various individuals might like to see fixed but would not be serious enough to hold up the system?

Mr. Peters: I will try to make them as pointed as I can for the purposes of comparison. It seems to me that if the landlord consistently did not maintain the heat level of 58 degrees in spite of the applicable legislation, or if the heating system broke down or there was a major repair with the water system or whatever, there obviously would be grounds to launch an application. On the other side, if the tenant had complained that the lawn had been cut twice a week in the past but now was being cut only once a week, I do not think it was ever intended to suggest that that would be grounds for petitioning to stop a rent increase as a change or the nonachievement of the standard.

As we go through this with the members of the committee, one of the fundamental challenges is to make sure that those standards are achievable and that they relate to what one would expect to keep a rental property fit, safe and secure. As I said earlier, that challenge is significant, given the comments Mr. Church made about the various and sundry regulations that govern the operation and construction of buildings. That will occupy some time by that committee in striking those standards; I am confident it will over that time.

Mr. Stevenson: I will pass. I accept the example of the heating. I am not sure your example of grass cutting clarifies my situation much, but maybe we will get further information later.

Ms. E. J. Smith: Following up on Mr. Stevenson's point, because I think there are members of the public here--if you would call them public--who are also on the committee that will be working on that, it would have been my understanding that the standards being looked at are higher, stricter standards than we are now seeing as our straight minimum health and safety standards.

My understanding previous to this time has been that one of the things the tenants have achieved is a higher standard. We have had things to provide that heat not be under 58 degrees and that it be safe and secure. I am assuming we are talking about standards that are beyond that. I know we are not going to get into that today, but it is certainly my hope that there is some understanding on the part of that committee that what the tenants got in their negotiations with the landlords in the committee was a guarantee of something more than bare minimum.

Mr. Chairman: You are starting to stray from the bill. I think we should be a little more careful.

11:40 a.m.

Mr. Pierce: Just as a point of clarification, the bottom line is the dialogue between the landlords and tenants on proposed capital expenditures. Mr. Peters, could you tell me what happens if, for example, the landlord would like to put new siding on his building and the tenant objects to the siding, saying: "The stuff that is on there is sufficient; any additional cost will increase the rent, and I am not prepared to accept the rent increase by having new siding on the building"? Yet the landlord wants to upgrade his accommodation. What happens about that? Does an adjudicator then decide whether the landlord should put on siding or do half the house and not the other half? What happens?

Mr. Peters: The concern that section tries to address is that the repairs are required repairs; they are not just window-dressing in the sense of a ruse to generate a rent increase that is not fully justified. At the same time, the other side of the coin is to suggest that the landlord is responsible for the maintenance of his or her property. Again, after a time, one ends up with the same issue of that mutuality of interest. Some repairs are required. In one sense, some repairs are preventive. One does not necessarily always wait until something has deteriorated to the point that it requires a complete overhaul; one tries to do things over a period of time.

Mr. Pierce: Maybe my example was wrong. Perhaps I could go beyond the one of siding. Let us say the landlord wants to increase the number of parking spaces for the existing building. That becomes a capital expense, not one of maintenance or repairs. The tenants object to any additional parking as a capital expense, because it will increase their rent. What happens in that case? Whether or not the cases I am citing are good examples, what I am looking for is where the adjudicator comes in and where the chips fall.

Mr. Callahan: Clause 91(4)(2) refers to "a change shown to have occurred in the standard of maintenance and repair."

Mr. Pierce: I am not talking about maintenance and repairs; I am talking about capital expense.

Mr. Chairman: Perhaps we could let Mr. Peters answer first.

Mr. Peters: For the moment, let us pursue the example of the increase in parking; that is a capital item, which would result in an amortization period and some rent adjustment. We are hopeful that when it came forward there would be an opportunity for the landlord to explain the rationale behind it. If there is not an understanding of the repair, I suppose at some point the rent review administrator will have to make a determination on whether it is a bona fide repair that should go through the system and be allowed as a capital cost.



Obviously, there are repairs in which there are few elements of disagreement or debate. There are other types of repairs that may generate some dialogue and some argument between the landlord and the tenant. If there is no clear agreement, someone has to make a decision that it is a valid repair and the rationale advanced by the landlord is sufficient to award the rent increase.

Mr. Pierce: It seems to me as though we are skirting all around the issue. Let me look at what I would consider to be another capital investment by a landlord.

If, under the new regulations and standards, laundry facilities are required, such as washers, dryers, etc., and a landlord does not have them in his building but proceeds to bring his building up to the standards-- although he is not required to because it is an existing building--this becomes a capital expense. If the tenants object to having that kind of facility in the building, what happens?

Where does the adjudicator come in to determine finally whether the landlord has the right to bring it up to the standards or whether the tenants have the right to demand that it not be brought up to the standards? They do not want any rent increases, so they are not prepared to accept the capital expense.

Mr. Chairman: Is that not what the appeal process is for? I do not understand.

Mr. Pierce: I do not know. That is what I am asking. Who is the adjudicator and where do the appeals go?

Mr. Church: I think I can see the area of confusion. There are two different issues. The landlord has an unfettered right to maintain his capital investment, maintain his property, and spend whatever funds he thinks are appropriate to do that. The issue at question is not whether he has a right to do that maintenance or to make those expenditures but to what degree those expenditures are going to be reflected in rent. They are two quite separate issues.

Throughout the discussions of the Rent Review Advisory Committee, both the landlord and tenant groups were very careful to recognize the landlord's right to protect and manage the asset. The issue became how one structured the pass-through of costs to tenants. I think what Mr. Peters was pointing out was that where the expenditure was not related to the actual business of renting apartments, the expenditure would not be passed through, and the guidelines would be structured that way.

For example, if the parking space was there but was used by the landlord's wife, chances are pretty good that would be revealed through the tenants' objections--this is not a hypothetical one; this is one that came up at a recent hearing--and that would be disallowed. On the other hand, if the parking lot was necessary to make the apartments attractive so the landlord could get full occupancy, that would be an allowable expenditure and would be amortized against the apartment.

There are very strict guidelines under the present system, and they would be even stricter under the new system.

Mr. Callahan: I was just trying to relate section 93, which allows the minister to refuse capital expenditures if they have arisen through

neglect. I think that is a clearer indication than what has just been said by the assistant deputy minister.

Mr. Chairman: I do not think it is, but are there any other questions on this section?

Mr. Reville: You have made some remarks about the economic disincentive to chronic refusal to obey an order to maintain, and I understood you to say chronic failure to comply would prohibit a landlord from applying for rent review. Would that also prohibit a landlord from implementing the guideline increase?

Mr. Peters: It can. As I mentioned, there are amendments to be moved.

Mr. Reville: Will that come in the amendments package?

Interjection: Yes.

Mr. Peters: Over and above that, the tenant can challenge any guideline increase in any event. There are amendments to be moved that talk about a forfeiture of any increase.

Mr. Reville: How does a tenant challenge a guideline increase?

Mr. Peters: By application under section 91 of the act.

Mr. Reville: Thank you.

Mr. Chairman: Are there any other questions before Mr. Peters moves on?

Mr. Peters: Thank you, Mr. Chairman. This concludes my portion of today's presentation. The next item on the agenda is to begin a discussion of the rent regulation process, and to that end I would like to introduce Pat Laverty, the director of the rent review policy branch, who will be addressing the issue of rent regulation.

Mr.-Chairman: Mr. Laverty, is your presentation fairly lengthy?

Mr.-Laverty: It is reasonably lengthy.

Mr.-Chairman: The committee members are muttering among themselves about recessing now and coming back at 1:45 so that you have an uninterrupted presentation. Is that agreeable among members of the committee?

The committee recessed at 11:50 a.m.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

RESIDENTIAL RENT REGULATION ACT

TUESDAY, AUGUST 19, 1986

Afternoon Sitting





STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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Pierce, F. J. (Rainy River PC)

Reville, D. (Riverdale NDP)

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Davis, W. C. (Scarborough Centre PC) for Mr. Bernier

Haggerty, R. (Erie L) for Mr. Epp

Jackson, C. (Burlington South PC) for Mr. Taylor

Clerk: Decker, T.

Staff:

Ward, B., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Laverty, P., Director, Rent Review Policy Branch, Rent Review Division

Curling, Hon. A., Minister

Church, G., Assistant Deputy Minister, Corporate Resources and Building  
Industry Development

LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, August 19, 1986

The committee resumed at 2 p.m. in committee room 228.

RESIDENTIAL RENT REGULATION ACT  
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: On Tuesday, September 30, we were to begin the Workers' Compensation Board hearings. My proposal is to scrap the WCB hearings before the House comes back, to do them after we come back in the middle of October, and that during the week of September 30, October 1 and October 2, we expand the Toronto hearings on this bill.

Most of us think that those 15-minute presentations simply will not work. It is too tight a time for the various groups to present their cases and for the committee to question them. My proposal is that we reschedule the Toronto groups in the week of September 30, October 1 and 2. I know that is going to cause some pain, but I think it will be worth the extra time that the groups will get.

The clerk will be in touch with the various groups. I hope it will not cause them too many problems, but I think the tradeoff is worth it. We will be able to give a more decent hearing to the Toronto groups.

The following week, the week before we come back, which is the last week before the Legislature comes back and we reassemble in the rubble upstairs, we will deal with clause-by-clause discussion and see how far we get.

Are there any comments on that, any problems?

Mr. Pierce: Is that the week of September 30?

Mr. Chairman: Yes, that is when we would reschedule the groups that are to appear from Toronto. That is our problem area.

Mr. Pierce: We are looking at Tuesday, Wednesday and Thursday?

Mr. Chairman: Yes. When we have rescheduled them into 30-minute periods instead of 15-minute periods, if it works out that we need an extra day, we will take the Monday or the Friday. Is there any problem on that? All right. We will go ahead and start that rescheduling. It is not fair to the groups to leave them hanging out there; so we will proceed with scheduling on this basis.

Mr. Jackson: I have one question with respect to the WCB deference. Did you check with the minister involved to determine whether he had any difficulty with your ordering it up in the manner that you are proposing?

Mr. Chairman: No, I have not checked that. I am making the perhaps heroic assumption that when the House comes back the Minister of Labour (Mr. Wrye) will be here and will accommodate us.

Mr. Jackson: I knew that, but in terms of changing its priority, in terms of the committee's agenda, is that not what you will be achieving?

Mr. Chairman: I am sorry; I do not understand. It is mainly going through the motions, but we do have to let the House leaders of the three parties know we have changed our schedule in case there is a problem.

Mr. Jackson: Okay.

Mr. Haggerty: You have how many witness or delegations coming in? Is it about 140? Will there be any more than that?

Mr. Chairman: It is almost 100.

Mr. Haggerty: I thought I counted about 136.

Mr. Chairman: No, I do not think it is 140. Perhaps you are including the out-of-town ones.

Mr. Haggerty: Yes, I am including them.

Mr. Chairman: Okay.

Mr. Haggerty: Can you get them all in in that length of time?

Mr. Chairman: That is what we hope. Mind you, going from 15 minutes to 30 minutes does double the length of time it takes.

Mr. Haggerty: That is what I am saying. Does it fit the schedule?

Mr. Chairman: Yes.

Mr. Pierce: It is a tough committee.

Mr. Chairman: Let us carry on. Mr. Laverty tells me that his presentation will take most of the afternoon. Tomorrow we can deal with the registry and the appeal process. We should not have any trouble getting through that. The members have copies of Mr. Laverty's presentation. Mr. Laverty, please proceed.

Mr. Laverty: My remarks today are divided into five sections. The first section deals with the procedural items in part VI of the act. The second section will deal with the rent increase guidelines and related issues. The third section of the presentation will deal with the process of rent justification at rent review, which is the basis on which rent increases are awarded. The fourth section will deal with two types of tenant applications, the first of these to challenge rent increases and the second related to illegal rents. The final portion of my presentation will cover a number of other issues: equalization, the rents on new or vacant units, and key money.

The organization of this presentation does not follow the act section by section, but brings together all related sections of the act on a topic-by-topic basis. Throughout the presentation, I will indicate the



sections of the act to which my remarks are directed. The section numbers are also indicated in the handout we have distributed to the members.

Finally, to facilitate going through this afternoon, I ask that we deal with the questions at the end of each of these sections so that we can go through this at an orderly pace, if that is acceptable to you.

The procedural section: While part VI of the act deals primarily with the economic package involved in rent regulations, it also contains several important procedural sections.

Section 67 ensures that tenants have at least 12 months between rent increases. This allows them a degree of stability with which to plan their economic decisions, including the decision as to renting or continuing to rent a particular unit. The section continues the intent of the previous legislation.

Section 69 refers to two separate procedures under the legislation. The first of these is a landlord's application to rent review on a whole building. The second is a landlord's notice of rent increase, which is given to the tenants of each particular unit. The purpose of section 69 is to make it clear that the requirements imposed by these procedures are independent of one another.

In the case of a landlord's application for rent review, the application must be made 90 days before the first intended rent increase in the building, with a copy given to all the tenants within 10 days. Those particulars are covered in sections 71 and 18. In the case of the notice of rent increase, each tenant is to receive such a notice 90 days before the rent increase on his or her particular unit. That matter is covered in part I of the act, in sections 5 and 6.

Section 70 deals with the retroactive period involved in bringing post-1975 buildings into rent review, with an effective date of August 1, 1985.

Subsection 70(2) indicates that landlords may continue to collect the rent increase specified in their notices to tenants until a rent review order is issued. This differs from the usual policy of charging a maximum rent increase under the guideline, pending a decision. However, it is similar to the procedure used for the retroactive period involved in the 1975 legislation.

This approach is deemed fair, given the special problems related to retroactivity, including the logistics of temporary repayments and the potential danger to financial viability in terms of the cash flow on new projects.

2:10 p.m.

Subsection 70(3) requires the landlord either to roll back his increase to the four per cent guideline and rebate excess amounts paid to the tenants or to apply to apply to rent review to justify the higher increase. This must be done within 60 days after the section comes into force.

Under subsection 70(4), where the landlord does not either rebate amounts owed or apply to rent review, tenants may either deduct the amount of the excess payment from future rent or apply to rent review in order to obtain a rent review order for payment. This latter course of action may be chosen by

a tenant who has moved out at some time during the retroactive period or by a tenant who may wish a rent review determination of the amount owed. This procedure is the same as that used for the retroactive period for the \$750 unit in the 1985 legislation.

Section 71 outlines the procedure that will apply to future applications by a landlord for a rent increase under the new legislation. Such applications are referred to as whole building review because all units are dealt with in the same landlord application. The landlord must apply to rent review 90 days before the first rent increase requested and file at that time a copy of a cost revenue statement that sets out the financial justification for the rent increase.

Under the legislation tenants will have up to 50 days to examine the landlord's submission. This is a major improvement from the current system, in which such evidence may be filed only 14 days before a rent review hearing. Landlords will also be able to comment on submissions made by tenants. The deadlines here may be extended in cases where the administrator decides it would be fair to do so.

In section 80, the procedures are outlined regarding the making of orders by the ministry on the rents that may be charged and any payment of money owed. It makes clear that such increases must be made on a legal rent base and can be less than the guideline increase. This section also commits the ministry to making its decision 15 days before the date of the first rent increase requested. Adherence to this deadline would reduce by more than one half the time required for a rent review decision. In cases where decisions cannot be made on time, tenants and landlords will be informed of the reason for the delay and the expected date of the decision.

I will now review these time frames on the chart. We have an application that occurs 90 days before the first increase, and that will be day zero. For up to 50 days, tenants will be able to review materials and provide comments to the administrator. During the next 25 days the administrator will review all the material submitted and render a decision by the 75th day, which is 15 days before the date of the first rent increase. That is the time scheme laid out in the section as currently written.

That completes the first section on procedural matters.

Mr. Chairman: Are there any questions of Mr. Laverty before he proceeds?

Mr. Davis: In the tenants' review of materials and comments, I assume the landlord can also comment on what the tenants say.

Mr. Laverty: Yes.

Mr. Haggerty: In your comments you suggested some viewpoints different from the present act. Does this mean there will be some amendments in this particular area?

Mr. Laverty: In my comments on this section, I pointed out a number of occasions where Bill 51 differs from the Residential Tenancies Act, which is the previous legislation. The comments I have made so far are contained in Bill 51 as written. At some other points in the presentation, I will be indicating some amendments simply because of their potential importance to the committee and to various interest groups, but the items I mentioned so far are contained in Bill 51.

Mr. Haggerty: Within the intent of Bill 51, then.

Mr. Laverty: Yes.

Mr. Reville: The question of government amendments is the important question. I understand there will be some; some have already been indicated by Mr. Peters.

I wonder whether the minister would respond to this. In terms of amendments that are other than housekeeping amendments that we are familiar with, if there are amendments that change the tone of the bill and if you already know what they are, it would be very helpful to have them before us, particularly when members of the public come and speak to what they view as the bill, which may already have been changed. It would be great if we knew about those in a timely fashion.

Hon. Mr. Curling: The comments I am aware of now would not in any way change the thrust of the bill.

The other part of your question I am hearing, if there are such amendments or changes, it is appropriate that we make them available to you so that it does not change again in how the debate goes on. That is quite an appropriate request.

May I add that previously Mr. Reville had asked for the education program, whether we could make available some of the stuff. I want to say it is now available; those who do not have it may ask for it.

Mr. Reville: I appreciate how quickly you have provided this. Thank you.

Mr. Chairman: I gather from this that the minister is then going to distribute the amendments when they are available.

Hon. Mr. Curling: The point I was trying to make was that those amendments that we felt would have changed things in any way, which again would have got the endorsement of the landlords and of tenants, would be made available if they changed the debate here.

Mr. Chairman: Fine.

Mr. Stevenson: On this idea of amendments, at this point prior to the hearings, approximately how many government amendments are you anticipating to this bill?

Hon. Mr. Curling: At this point I will ask Gardner Church to talk about that, because some of the amendments are housekeeping themselves. We talk about many amendments. Maybe he can comment on the two types of amendments.

Mr. Church: Thank you. The majority of amendments will be introduced by the government as a result of the request of the Rent Review Advisory Committee. The government's undertaking was that the bill would reflect the agreement, except where the government specifically announced otherwise. As you will appreciate, the drafting of a bill to reflect an agreement leaves a great deal of room for interpretation, so there are a great many very minor amendments.



I can give you one example. The bill the uses the word "consultation" and the agreement used the word "dialogue" in the same circumstance. It was the opinion of the committee, supported by some of the legal people, that there was a difference in the legal meaning of the words "consultation" and "dialogue," and so we will be introducing an amendment to reflect the agreement. There are many very minor issues like that.

There are one or two quite fundamental amendments that reflect policy. I think Mr. Peters mentioned one this morning in which it is the government's intention to introduce an amendment to allow for the permanent stay of any rent increase under some circumstances in violation of the residential rental standards board.

2:20 p.m.

There are one or two others of that sort that have been announced by the minister in the past. I think these are the ones Mr. Reville wants to see on the table right away, and we can get them on the table right away. I know the Rental Housing Advisory Committee is working around the clock to complete its comments to us on the housekeeping amendments. At the moment we cannot predict the number, but there will be a substantial number of minor, housekeeping amendments.

Mr. Davis: I would appreciate if you would expedite your remarks to the minister to have the variety of amendments that the government is going to bring forth before this committee as quickly as possible. I recall two committees on which I was sitting when housekeeping amendments, which were very minor in their opinion, turned out to be major when taken in the context of the overall bill we were debating. One has only to look at Bill 30 or bills 54 and 55, where we got new amendments every hour on the hour.

If the government wants us to debate the bill expediently and with a sense of understanding, we need those amendments before us at the beginning. I point out to the minister that there is a great difference between the words "consultation" and "dialogue," and it is not a housekeeping amendment.

Mr. Chairman: I witnessed some of that agony on Bill 30 and bills 54 and 55. It was a nightmare when the amendments were put in the middle of the proceedings. I too hope the minister does not provide those to us at the last minute.

Mr. Callahan: I want to ask a question now because I do not know whether it is in one of the amendments. I notice there is nothing in the subsequent material that deals with appeals. Can you tell me where in the act it says what happens when the appeal is granted in terms of getting the money back to the tenant who paid that money during the period before the appeal decision is made?

Mr. Chairman: I am not sure this is an appropriate time to debate that.

Mr. Lavery: That matter is dealt with in section 7 of the act, and right now we are dealing with section 6. It will be addressed later on.

Mr. Chairman: Is it not true you want to present the whole appeal section tomorrow?

Mr. Callahan: Fine. I did not see it on the agenda for today.

Mr. Jackson: The minister referred to the joint committee that helped to stimulate this document and that is having ongoing discussions. To what degree can we anticipate substantive changes to the bill coming from that quarter?

I understand the process of sanitizing recommendations through the ministry to make sure they conform with legalese and to ensure the bill is a workable document. I understand that process. What has been introduced is the body that generated this bill may not have completed all its work and internal agreements. It has not been explained to me the extent to which there may be surprises from that body. How does the minister anticipate bringing that bit of input into this process, which is amending a piece of legislation?

Mr. Chairman: Before the minister answers, I would remind you that Ms. Hogan and Mr. Grenier are appearing before this committee on Thursday.

Mr. Jackson: I am aware of that, but given that you understand the nature of my question, I am trying to limit the number of surprises for the work of committee.

Hon. Mr. Curling: I do not think there will be any surprises. I appreciate the question. It will not be a problem to present to you as many of the amendments as possible so you can get the thrust of what is going on. When we started debating, I knew immediately the great difference between "dialogue" and "consultation." Yes, we can make available to you as many of the amendments as possible. In the meantime, when Ms. Hogan and Mr. Grenier make their presentation, it will bring to light that there is working together. As you know, in moving from the report to legislation, certain things are sometimes missed, and certain things are emphasized or described in a different way. That is what is being done in that way.

To answer your question directly, we will make the amendments available so you can have an idea of how we intend to proceed.

Mr. Jackson: My final comment is only in the interest of being helpful. We ran into this difficulty with the role and impact of the planning and implementation commission vis-à-vis the public hearings on Bill 30. I envisage a possible parallel problem here. At the time, the Minister of Education (Mr. Conway) was helpful in laying out completely for the committee the exact terms of reference, authority and term of that advisory body. At what point does it cease to have an impact in its ability to counsel on this bill?

It is sometimes helpful for legislators to understand that role as we start the process and not to discover it or have it continue to evolve through the process. The Minister of Education was extremely helpful in making that abundantly clear from the start. The minister might give some thought to explaining that prior to the appearance on Thursday, so we know the full mandate you have given to them, when it will stop and at what point we are dealing with the public, the committee or with the ministry officials to develop a final document.

Hon. Mr. Curling: Thank you. Your points are all quite well taken.

Mr. Chairman: As long as it is understood they will not have standing before the committee. Are there any other questions?

Would you proceed, Mr. Lavery.

Mr. Lavery: The second section I will cover this afternoon deals with the rent increase guideline and related provisions; these are found in section 68 of the act. Clause 68(1)(a) sets the rent guideline at four per cent for the period from August 1, 1985, to the end of December 1986. In clause 68(1)(b), the annual guideline from 1987 onward is established as equal to the residential complex cost index, the details of which are to be found in schedule A of the act, which is on the back page.

As schedule A indicates, the residential complex cost index will be the greater of two per cent or two per cent plus two thirds of the three-year average of the building operating cost index. The two per cent minimum is of importance only if one believes inflation will be negative over three consecutive years.

Mr. Reville: Does anybody believe that?

Mr. Pierce: It just went up today.

Mr. Chairman: Please ignore the expressions of disbelief, Mr. Lavery.

Mr. Lavery: It may be useful to review the construction of the building operating cost index and the related residential complex cost index. To start with, not all costs experienced by landlords are of equal importance. In reviewing the alternative sources of information available, our Rent Review Advisory Committee decided to accept the division of costs experienced by buildings that went to rent review in the recent past. It is important to note for current purposes that this weighting relates only to the distribution of costs between types of operating expenditures and does not involve acceptance of the average rate of cost increase that was experienced by buildings going to rent review.

2:30 p.m.

As can be seen in the related chart, property taxes are the largest component of operating costs for the typical building; they account for slightly more than one third of all operating costs in a building. Maintenance expenditures account for a little more than 15 per cent, while utilities, including heating, electricity and water, account for more than one quarter of a typical building's expenses. Management and administrative overhead is almost nine per cent, while the cost of a superintendent is 7.6 per cent on average. The remaining five per cent relates to various other expenditures such as building insurance, accounting fees, bad debt allowance and similar expenditures.

In constructing the building operating cost index, these weights are combined with information on the rate of cost increase, which is taken from publicly available data published by the Ministry of Municipal Affairs on property tax increases and from Statistics Canada with regard to wage surveys and related price components contained in the consumer price index.

For the purposes of illustration, the next table combines the weights we have discussed with some hypothetical cost increases to show how the overall increase is determined.



For example, in the first line the weight for superintendent's salary and rent is 7.6 out of 100, which is the total of the column of weights. This ratio is multiplied by the increase in wages, which is assumed here to be four per cent and which in actual practice would be taken from the appropriate Statistics Canada publication.

When multiplied together, 7.6 divided by 100 multiplied by four per cent is equal to 0.3040 per cent. The same multiplication procedure is done on each of the remaining categories, and the total amount is found to equal 3.8202, which is the increase in the building operating cost index.

To get the guideline, that will be equal to two per cent plus two thirds of the building operating cost index or two per cent plus two thirds of 3.82. As it works out in this particular example, the guideline will be 4.5 per cent; that will become the residential complex cost index.

Mr. Chairman: Because this is so complex, perhaps members would like to ask you about this before you move on to the other subjects. By the way, I found this document helpful when I was struggling through. The guide to the proposed Residential Rent Regulation Act is helpful in getting to know RCCI and BOCI. I commend it to members.

Are there any questions of Mr. Laverty on this section?

Mr. Haggerty: I was looking at the numbers in the slide presentation. In your building operating cost index 1986, you had components and weights. You had management at 8.9 per cent and administration, superintendent's salary and rent at 7.6 per cent. I noticed quite a change there. Then you come back and put maintenance at 15.6, which seems to be an exceptionally high item. Can you give me an explanation for the difference?

Mr. Laverty: You must remember we are trying to look at the relative importance of such expenditures in a landlord's budget; they do not relate to percentage increases experienced in these items. What this says, as I indicated earlier, is that municipal taxes, for example, are about one third of the operating costs for the typical landlord; of the total of all operating costs, about \$1 out of every \$3 is used to pay municipal taxes. Slightly more than \$1 in \$4 is used to pay various utility expenditures. The difference between these various items simply reflects the relative importance of these items in the operating budgets of landlords. One has to be careful in interpreting the information that way.

Mr. Reville: I may have had a little more time to play around with RCCI and BOCI than some members of the committee--did I say something indiscreet?

Mr. Chairman: Carry on; I am sure you will.

Mr. Reville: It is funny how soon you get to know one another around here.

There are four issues in terms of your formula, and I am not sure whether you are going to speak to all the aspects of the formula a bit later. I guess that is a first question. Are you going to explain how you get from BOCI to RCCI subsequently?

Mr. Laverty: What we have done to this point is simply gone to the calculation of ROCI. We have additional information that will cover certain other aspects.

Mr. Reville: Why do I not confine my questioning at this point to the BOCI issue rather than the ROCI issue? It seems to me two things are of interest to us. One is evidence of the weighting of each kind of cost. You have suggested that is based on past experience at the Residential Tenancy Commission.

Mr. Laverty: That is correct.

Mr. Reville: Is there any documentation that could be provided to the committee so we could see for ourselves that a super's salary should be weighted at 7.6?

Mr. Laverty: Yes, we could provide that.

Mr. Reville: That would be helpful. The second issue, and I think in this case you said this was readily available public information, relates to the inflationary factor that should be attributed to each kind of expense. For instance, I assume a table of municipal tax increases across the province, on average, is the way you got to the weighting of 3.7 in your example.

Mr. Laverty: Yes. Municipal taxes are computed annually by the Ministry of Municipal Affairs. It becomes available about this time of year.

Mr. Reville: I understand you are using different types of indices in relation to each kind of expense, such as the consumer price index for some, the building cost index for others, and actuals for others. Is there any documentation that justifies why you use those indices in particular cases?

Mr. Laverty: What we were attempting to get was the closest available proxy to the particular series we were trying to represent. For example, for insurance, the closest available insurance data would be contained in the consumer price index, which deals with the insurance payments that the home owners have.

Mr. Reville: That would be blown all to hell by recent experience, I would think.

Mr. Laverty: There have been variable increases in insurance and, indeed, it is going up more rapidly now than it has heretofore.

Mr. Reville: Rather than wade through each one of these, maybe there is some documentation that demonstrates why you chose a particular index or a particular weighted factor. If we could have that tabled, I will shut up.

Mr. Chairman: Is that a good tradeoff, Mr. Laverty?

2:40 p.m.

Mr. Callahan: It is worth its weight in gold.

Mr. Laverty: We will endeavour to provide the information.

Mr. Reville: I want to let the government know at this point that this is not the area in which I have a lot of hay to make, so it should not fear to present this information. I believe you are probably right on this; I may deny that later.

Mr. Callahan: What is the section? I am trying to find the two items here. I can find the residential complex cost index, but not the building operating cost index. Where is it?

Mr. Laverty: RCCI is referred to in section 68.

Mr. Callahan: I see that, but where is BOCI?

Mr. Laverty: That is contained in schedule A, which is on page 56 at the back of the act: clauses (a) and (b) and the following paragraph.

Mr. Callahan: But there is no section dealing with BOCI. Do I take it from this that the formula you have come up with is one that remains constant?

Mr. Laverty: Yes. The formula forms part of the act--

Mr. Callahan: Where?

Mr. Laverty: --in the schedule appended to it. In order to alter that particular schedule, it is my understanding you would have to introduce an amendment to the act.

Mr. Callahan: What was that?

Mr. Laverty: My understanding would be that you would have to amend the act in order to amend the schedule.

Mr. Callahan: Yes, because there is nothing in the regulations that allows the Lieutenant Governor to do it.

Mr. Laverty: That is correct.

Mr. Callahan: It would seem to me that this is where it should be, rather than having to bring it back. What I wanted to get at was what my colleague was getting at.

You have acquired this information, I gather, by going through the averages of costs that have been put forward by landlords over the rent review years. Is that correct?

Mr. Laverty: The weighting represents the relative importance of such expenditures in the overall operating cost budget of landlords.

Mr. Callahan: Yes, but how did you get that? Did you get it from previous rent review hearings over the years?

Mr. Laverty: Yes. It was based on information provided by the Residential Tenancy Commission relating to recent rent review applications.

Mr. Callahan: That would have been some time ago. What is likely to effect a sufficient change in the moving around of those?



Mr. Lavery: I am not quite sure I follow the question.

Mr. Callahan: My colleague from the New Democratic Party indicated, for instance, that insurance was given a certain weighting--and it might have a greater weighting now because of the things that have happened recently with the question of insurance and premiums. Do you see any others there that might move around and become more significant to a landlord?

Mr. Lavery: The way the index will be updated for the future to reflect actual experience, that is, if property taxes in general were to go up much faster than other items, municipal taxes would then receive a greater weight over time in the way the formula is calculated.

If this is our starting point for the initial year, certain expenditures will get an increased weight over time if they become much more important, whereas expenditures will have a reduced weight over time if they become a lot less important.

Mr. Callahan: This formula is for the traditional apartment building. I noticed that, within the definition, mobile homes and several other items are subject to this act. Would RCCI and BOCI not affect them? How do you get the rental increases for those?

Mr. Lavery: When we were reviewing the potential indexes with the advisory committee, one of the questions discussed quite actively was the possibility of having different rent review guidelines and operating cost allowances for different kinds of buildings in different locations in the province. In that discussion, it was decided that it would be a better approach not to have several dozen rent guidelines in Ontario, but to have, as we have had for the past 11 years, a single rent increase guideline that applies everywhere in Ontario and to all types of buildings.

Mr. Callahan: This applies to the other things that are subject to review besides apartment buildings?

Mr. Lavery: Yes. It applies to all buildings that are covered under the act.

Mr. Callahan: As I read the definition of landlord--maybe it is not landlord; it is mobile home parks and mobile homes. They are covered under this?

Mr. Lavery: That is correct.

Mr. Callahan: How do you apply things like superintendent's salary and rent?

Mr. Lavery: What one generates in this formula is an annual rent guideline increase. That 4.5 per cent in this example will apply to all the various types of units in all the various parts of the province.

Mr. Callahan: When that figure is arrived at, it can be applied to anything that is covered by the rental zone.

Mr. Lavery: That is correct.

Mr. Reville: I left the room and you got on to the residential complex cost index. That is why I wanted to get back in on it.

The third level of evidence I would like to have presented to the committee is the justification for the two-thirds aspect of the formula, the two thirds of the building operating cost index. What evidence was before you that led you to think two thirds represented the fraction of this mythical set of operating costs that would be applied to a real building instead of a metaphysical building? Where did that two-thirds idea come from?

Mr. Laverty: The pro formula with two per cent plus two thirds--

Mr. Reville: I will ask you about the two per cent later. Right now, I want to ask about the two thirds.

Mr. Laverty: They both came from the same place.

Mr. Reville: That is what I was afraid of.

Mr. Laverty: The two per cent plus two thirds was the amount that was recommended to us by our advisory committee.

Mr. Reville: Did they match cards or something?

Mr. Laverty: There was an extensive discussion, as you might imagine. The arguments that were used behind the numbers related to such things as cost increases, the need to maintain and improve maintenance, the need to provide for minor capital expenditures without launching a rent review. It dealt with such things as what would be appropriate for adjustments in landlords' incomes if they were running their buildings efficiently. Those were the things the committee discussed in the course of coming to a conclusion that, in their view, two per cent plus two thirds of BOCI was the appropriate level for the guideline.

Mr. Reville: I will have to go at this a different way it seems. Suppose I owned a building that had no superintendent. That is a possibility, is it not? Therefore, I would have no cost for a superintendent and I would have no inflationary problem about my superintendent's salary. Surely the two thirds relates to some real life experience somewhere, and I would like to know what that real life experience was.

Mr. Callahan: The question was just answered.

Mr. Reville: I did not think that was the answer.

Mr. Chairman: Mr. Church would like to jump in here.

2:50 p.m.

Mr. Reville: That will be fine. I will take the answer from wherever it can come.

Mr. Church: The component that has not been introduced into the discussion is the policy framework presented to and accepted by the committee in commencing its work. The key point the government had laid out in its initial policy was that, instead of being established rather arbitrarily when the government decided to introduce an amendment to the legislation, the guideline should change regularly at a rate affected by inflation, but more slowly than inflation.

The reason for that policy was to establish a guideline that did two things. When inflation was low, it would provide a slightly higher than inflation increase to the landlord so that when inflation was high, the landlord could reasonably be expected to insulate tenants from the higher than normal inflation. As a result, the guideline was to be established as government policy so that at some point the guideline was lower than inflation.

In the initial policy statement the minister made in December, he indicated he did not know what the logical crossover point should be, whether four per cent, six per cent, eight per cent or whatever. When inflation was low, it was the government's expectation the guideline would be slightly above the rate of inflation, and when inflation was high, tenants would be protected, a sort of built-in casualty insurance from inflation. That led to the discussions Mr. Laverty referred to. Given that policy, where do we reflect it?

The crossover point the Rent Review Advisory Committee ended up suggesting was six per cent. That is essentially the product of the formula. The components that went into the formula were based on fairly scientific weighting, as Pat has laid out, but the actual policy dictating the crossover process was laid out by the province in advance.

Mr. Reville: Mr. Chairman, I have heard this explanation of the clever crossover policy invented by the government. I do not deny that the formula may indeed have that effect. In fact, I have seen graphs that seemed to indicate it does have that effect, which is interesting but totally beside the point as far as I am concerned, given that we know what inflation is today but do not know what it will be tomorrow. Inflation may never get higher than the RCCI is, in which case you are paying for a benefit that may never be realized, if you follow my line of argument.

It strikes me that because BOCI is a yardstick made up of indices and weighted factors, we know that not all buildings would attract all these costs and not all these costs would necessarily go up by that factor. I think that is correct. You might be a very good bargainer with your super and his rate increase might be zero instead of five per cent. It seems to me the two thirds came from somewhere. A decision was made by somebody that a real building would attract two thirds of this cost index. Where did that idea come from? Why not a half or three quarters?

Mr. Church: Not to put it too bluntly, the actual formula did not arise out of a belief that some landlords experience more or less. The weightings are an average. In any average there will be landlords whose costs are different. The actual formula was designed more to produce a result that was fair and did not require tinkering by bureaucrats or regular amendments in the Legislature to construct the index every year.

Mr. Reville: If you want us to believe this is fair, surely you would have to adduce evidence to show that it is fair and that it is not the two thirds, and the two did not emerge by filling the garden hose with water and taking one end here and one there. You know how that works, that kind of level, when you have lost your level.

Mr. Church: I do not think there is any question that the minister's intent will be to outline in fairly considerable detail the reasons the government believes the crossover process is less incidental than you suggested. There is no question that the major issue the government confronted



when it began these discussions was the very substantial concern that tenants had that if inflation took off again, they would simply be inflated clean out of their apartments. There was a real concern that the guideline should not go up at the rate of inflation. Similarly, there was a concern that for two and a half years the guideline had stayed substantially above the rate of inflation. Landlords equally had a concern that during a period of 12 per cent inflation, they were at a six per cent guideline.

All of that led the government to believe that justice required a formula that reflected but did not immediately have an impact on costs; hence the three-year average on the particular formula. Where precision was required, in the view of both the committee and the government, was in the actual weighting of the components, so that the inflationary impact--and that is basically the building operating cost index--was accurate to the times. The guideline itself then was to reflect the policy of the crossover at a reasonable point. If you are looking for rationale, the members of the committee felt that it was reasonable for the guideline to reflect minor increments above the rate of inflation, but as soon as it got above six per cent, the guideline's increments had to be below the rate of inflation.

Mr. Reville: If you have not lost the rest of the committee with that--

Mr. Church: I am sorry.

Mr. Reville: It is a bit fluffy for me. It strikes me that after 11 years' experience in rent review there are actual numbers about actual buildings existing on the street today that could be used to demonstrate why your theory is correct or incorrect and why the guideline is fair or unfair. One of the things I hear you saying is that in order to make it work, you must have the two thirds at one end and the two at the other.

Mr. Church: You are quite right. We fully intend to provide you the data supporting the weighting.

Mr. Reville: I have already asked you that, and you have agreed to that.

I am talking about a third set of evidences that relate to the decision about the two thirds, and if you will, I will allow you to put the two in at the same time. I wanted to deal with them separately because I think they are quite separate things. I believe an argument can be made that the building operating cost index is unrealistic, two thirds of BOCI is unrealistic and two is unrealistic. I want you to explain why you decided on two thirds of BOCI in the first place and then why you decided to add two. If you want to answer my question by saying that the two thirds is complementary to the two, that is fine. I am prepared to listen to your argument on that.

Mr. Chairman: I am getting a little bit nervous here. We are not really here to debate the merits of the legislation at this point so much as to get clarification from the Ministry of Housing people as to what there is in the legislation. I would caution you that the debate on the merits of the bill should come on the clause-by-clause debate.

Mr. Reville: Mr. Chairman, I thank you for your caution, but it seems to me I have asked for a clarification of the ingredients of the formula. Merely repeating that it is two thirds BOCI plus two is not really

clarification. If there does not exist any evidence, that is fine. Then it is a policy decision.

Mr. Chairman: Mr. Church, you are getting us the information you can on that?

Mr. Church: Yes. I think the last point Mr. Reville made is that, to be completely frank, we are talking here about a policy decision. We are talking here about the government accepting the advice of the committee based on a policy guideline the government had given the committee, and the effect is a less than inflationary increase in the guideline crossing over at a point around six per cent.

The fact that it is using two thirds of inflation and a base of two is essentially a policy result, not a statistical calculation. I fully agree that you can debate the merits of it, but I think the chairman's point is that is for another place and time.

Mr. Chairman: And that is something the minister must answer. Can we move on to Ms. Smith?

Ms. E. J. Smith: I am satisfied with what you have said. I think the next diagram illustrates this too.

3 p.m.

Mr. Haggerty: I would like some further clarification. In the numbers game--I guess it is a ball game--I am looking at the superintendent's salary/rent, and the management/administration maintenance cost; they work out to about 37 per cent of the cost of investment. Looking at that, if you say we are going to look at a guideline and the possibility of an average increase of 4.5 per cent per year, how do you arrive at that without having some other balance on the other side of the ledger asking, "What is the profit end of this?" What are we looking at?

For example, Bell Canada makes a rate application almost every year, as well as having a settlement in an appeals structure of a quarter of that or whatever it might be, and it has already made another application for another increase. There is just no end to this. They are always screaming, "There is no sufficient return on our investment." Based on that, is there sufficient return for the investor in the area of rental units in Ontario? One of the purposes of the bill is to encourage investment in this area. Will he receive a fair return with affordable rents?

Mr. Laverty: That raises a number of questions, to say the least. This particular breakdown is only a breakdown of the operating costs that are the day-to-day expenditures needed to operate the building. It does not include consideration of the treatment of financing payments at this point, and it does not include any consideration of the profit level of the landlord or allowances for capital expenditures. This is only part of the overall consideration that would be considered for a rent review.

We would look at operating costs that are represented here. We would look at the capital expenditures in replacing roofs, adding appliances and the like. We would look at the financing payments on mortgages and a number of other considerations. Later on, we will also be discussing the rate of return, and you will see the legislation contemplates a different treatment for those

buildings that we are currently bringing into rent review, the post-1975 buildings, and those that were built previously.

We will be dealing with all these topics to some extent as we go through the remainder of this presentation. Your question anticipates a fair amount of the ground that I hope to cover here with you this afternoon. I ask you to be somewhat patient and come back to ask questions as we deal with each of the other items.

Mr. Stevenson: My question has already been answered. As I understand this formula, this is basically a simple linear relationship with a Y intercept of two per cent and a slope of two thirds and there is no regression analysis that one can do to come up with that formula. As Mr. Church said, it is strictly a policy decision to come up with that line. You cannot get data out of the marketplace to formulate that equation because one is calculated from the other. You cannot go out and measure the residential complex cost index and the building operating cost index and formulate an equation; it has to be done by decision.

Mr. Lavery: The actual selection was a balancing of considerations that did not include regression analysis.

Mr. Stevenson: Right. Thank you.

Mr. Chairman: That has been helpful, Mr. Stevenson.

Mr. Davis: For clarification, in the construction of BOCI, you do not include the percentage that the individual person is paying on money borrowed?

Mr. Lavery: No, that is not covered. You must remember that here we are talking about the guideline increase that one gets if one is not going to rent review. If you go to rent review and you have had a change in the interest rate in the money borrowed, you would bring that forward as an additional consideration.

Mr. Davis: Okay.

Mr. Chairman: Mr. Lavery, you can continue.

Mr. Lavery: I will continue with the next chart. This deals with the fact that it is important to note that the construction of the building operating cost index is based on the average increases over the past three years. The impact of this on the index can be seen in this chart. Two things are evident. First, when inflation is increasing, the three-year average goes up more slowly than a one-year average. When inflation decreases, the three-year index will also change more slowly.

The second thing one will notice is that because we are using a three-year average, the peak increase is lower and the valley is somewhat higher than if we were using an annual index. Thus, the three-year average produces a more stable rate of rent increase than if we were using a year-by-year average.

The next chart illustrates something that has just been discussed, but we will go through it for the benefit of all the members. This compares the increases in the building operating cost index on the one hand and the



residential complex cost index on the other. You will note that at six per cent these two values are equal. At higher rates of inflation, the guideline is below the increase in the building operating cost index. For example, when BOCI is 12 per cent, RCCI is only 10 per cent. This provides tenants with a greater protection when inflation is high, and this is balanced by somewhat higher guideline increases when inflation is lower than six per cent.

Mr. Davis: To verify what I think I see here, the original intention of the rent review process was to say we would hold rent increases in the province at either six per cent or four per cent, depending on which election you are fighting or which party you were at that time. That now becomes a fluctuating number. Depending on the inflationary rates that occur within those factors on the BOCI scale, it is possible tenants can face rent increases that roughly look like they are one, two or three per cent below the inflation rate; so that in your schematic here, if the BOCI percentage was 12, the tenants, if I understand this, would have up to a 10 per cent increase.

Mr. Laverty: For rates of cost increase beyond six per cent, BOCI will be higher than RCCI. Below six per cent the reverse is true.

Mr. Davis: However, RCCI is the percentage that is passed on to the tenant.

Mr. Laverty: That is the guideline.

Mr. Davis: In your schematic here, when BOCI is 12 per cent, tenants in this province would be paying 10 per cent.

Mr. Laverty: That is correct.

Mr. Chairman: Okay?

3:10 p.m.

Mr. Laverty: In the immediate future, there has been some concern expressed that the guideline may increase in 1987. It should be remembered, however, that other provisions in this legislation will work to produce lower rent increases. On balance, the average may be slightly lower or slightly higher depending on actual experience, but it is worth while to list at this point the factors that would tend to produce lower increases under the new program.

First, the implementation of the rent registry will virtually eliminate illegal rents and should produce a large number of rent rollbacks, starting in 1987.

Second, the fixed operating cost allowance will prevent the practice of stacking operating cost increases into rent review years. I will say more on this and the other elements on the list later on in the presentation.

Third, the reduction of previous costs when capital expenditures recur will reduce future rent increases.

Fourth, the financing-costs-no-longer-borne provision will result in lower rents charged.

Fifth, deterioration and maintenance or violation of standards can reduce rent increases.

Sixth, the inclusion of post-1975 buildings will mean lower increases on these units than would have occurred had they remained exempt.

Seventh, a restoration of confidence by builders would result in increased supply and a lowering of pressure for rent increases.

Eight, key money is now to be illegal, and this will lower the cost of access to rental housing.

In addition, as a ninth point, we note that the 1987 guideline may be somewhat higher than continued inflation at the current level would support in the future simply because of the use of the three-year average that I discussed a few minutes ago. With the use of a three-year average, the guideline for 1987 would include some cost increases back as far as 1983, when inflation was higher than it is at present. Assuming stable inflation during the next year, we would expect the guideline to be lower in 1988.

It may also be noted that the construction of the indexes will be reviewed in 1989. This fact is indicated in clause 11(d) of the legislation.

Mr. Reville: Before you move on, I kind of nodded off there for a second. The list of nine points under impact on rent increases flows from what?

Mr. Laverty: These are references to other areas in the legislation, and in housing policy more generally, that would tend to lower the rate of rent increases in the future.

Mr. Reville: It is alleged not that somehow the guideline produces these other effects but that these other effects will impinge on the guidelines to exert downward pressure on rent increases. That is the argument.

Mr. Laverty: We are simply saying the guideline is one consideration among many as to what the overall impact on what rent increases will be in the future.

Mr. Reville: But they are basically a list of policy decisions about various elements of rents that are contained in the bill as a whole.

Mr. Laverty: Most of which I will be discussing as we continue.

Mr. Reville: Okay. I guess the important question of the afternoon is, what is the residential complex cost index for 1987?

Mr. Laverty: We are currently working on that very question.

Mr. Reville: But under the legislation it is supposed to be known by August 1, right? It is now August 19, so you are 18 days late. Will you have the answer by tomorrow?

Mr. Laverty: The legislation, after it is passed, would call for August 31.

Mr. Reville: I have seen various numbers: 5.2 is the first I heard, then it turned into 5.1 and yesterday in the Ontario Home Builders Association magazine it said 5.7. Are any of those numbers right?

Mr. Laverty: I would expect that 5.7 would be high.

Mr. Reville: Would 5.1 be low?

Mr. Laverty: For 1987, something between five and 5.5 would be about right. For 1988, assuming stable inflation, it would be something under five. As I indicated, we are currently finalizing those statistics, and it would be premature to announce with any certainty.

Mr. Reville: You have heard what our schedule of hearings is; so the likelihood is that we will know the number before we are done here.

Mr. Laverty: That is entirely possible.

Mr. Chairman: Any questions? Okay. Mr Laverty.

Mr. Laverty: Moving on to subsection 68(2), to which we have already made reference, after the legislation passes there will be a requirement to publish the annual guideline increase in the Ontario Gazette on or before August 31 of each year. This date is selected, given the desirability for landlords to be able to give tenants 90 days' notice of individual rent increases or of rent review applications on the building. In fact, it is not only desirable, it is also required legislatively. This would mean that landlords would have about one month to decide on whether to accept the guideline increase or to go to rent review for increases starting in January of each year.

In subsection 68(3), the concept of maximum rent is introduced. Under the Residential Tenancies Act, if a landlord takes less than the rent guideline in any year, he cannot make up for it in subsequent years. This affects a surprising number of units. For 1985 in Toronto, for example, 20 per cent of all tenants who remained in the same unit received a rent increase of 2.5 per cent or less. Among those in buildings of fewer than six units, the proportion was more than 40 per cent, while in larger buildings, more than 10 per cent of such units received little or no increase. In most other areas of Ontario, the overall figures are generally somewhat higher.

These low increases can occur for several reasons. First, many landlords try to retain good tenants by not increasing their rents every year. Second, in some cases landlords will charge a lower rent increase to an individual who is poor or who is elderly and on a fixed income. Third, low increases or even reductions may occur in communities suffering from periodic depression associated with major strikes or layoffs.

In the past, landlords may have corrected for these lower increases either on vacancy or on agreement. With the implementation of the registry and increased enforcement, however, such informal adjustment mechanisms will be more easily regulated. The amount of the catch-up will be strictly limited to the cumulative amount of guideline increases. The alternative of not allowing any catch-up, combined with related enforcement, would probably reduce dramatically the number of lower-than-guideline increases and would create serious problems of financial viability in those communities that periodically are subject to cyclical downturns.



Finally, in section 87, similar reasoning applies to situations where a landlord asks for a lower rent increase at rent review than he actually can prove. That completes the discussion of the guideline and the related provisions.

Mr. Chairman: Are there any questions on RCCI?

Mr. Stevenson: I am not sure I understand that last part. Let us say you have three years of four per cent increases in a row, but because of the local economy a landlord takes three years of two per cent in a row. If the economy of that area suddenly becomes buoyant, can the landlord then ask for whatever shortfall he or she may have had in the previous three years?

Mr. Laverty: That is correct.

Mr. Stevenson: That is not automatic? It can be appealed; they can give notice, but it is not necessarily going to be awarded.

Mr. Laverty: There is a two-part answer. Under subsection 68(3), you can charge such an increase without going to rent review. However, under section 91, the tenant can appeal the rent increase on limited grounds; namely, the deterioration of maintenance, on the grounds that there is a violation of a maintenance standards or on the grounds that he himself is paying a higher rent than other people in the same building. So there is a limited right of appeal under section 91.

Mr. Callahan: Going back to subsection 68(3), could we go through that again, please? A landlord can apply for increases in excess of those permitted under clauses (a) and (b). I am sorry, I do not follow that.

Mr. Laverty: To take a simple example, if instead of taking a four per cent guideline at present, he takes a two per cent increase, and if four per cent were applicable in the next period as well, then in the next year he could take the two per cent he did not take this year, plus the four per cent that would apply in the next year.

Mr. Callahan: As long as it does not add up to more than if he had taken it each year.

Mr. Laverty: That is correct.

Mr. Callahan: The reason I asked you to explain it again was that I thought you said you could not accumulate these increases. Did you not say that?

Mr. Laverty: I do not believe I did

Mr. Callahan: So you can--

Mr. Laverty: That is correct. If you forgo the increase, you can catch up for it in a subsequent year.

Mr. Callahan: If one tenant has the benefit of that and then moves out before the landlord decides to come up with this horrendous increase, how does the new tenant become aware that he has not taken these rent increases previously?

Mr. Laverty: There are two notification procedures. One of them is,

under section 5 of the act as it will be amended, there will be a requirement in the notice of rent increase to include the information where what is termed the maximum rent is higher than the actual rent being requested. This means whenever you have that situation you will know that, while for the next 12 months you are going to be held at whatever rent the landlord has in the lease, after 12 months is over, he can eliminate any or all of that difference between actual rent and maximum and get whatever the appropriate guideline increase is going to be.

The second procedure, under subsection 19(2), is that if you are contemplating renting a unit and it happens to be one of these units that has forgone rent increases, you will have to be informed that is the case so that once again, as a consumer, you will know what you are faced with.

Mr. Callahan: Whose responsibility is it to inform you?

Mr. Lavery: The landlord's.

Mr. Callahan: If he does not do that, does that deprive him of the right to apply for that increase?

Mr. Lavery: That matter is currently under active consideration.

Mr. Callahan: It would seem to me that if he is not deprived of that, the tenant has really bought a pig in a poke.

Mr. Lavery: As it is currently drafted, the act does not include such a provision. It has been brought to our attention that is the case, and we are contemplating the desirability of an amendment in that regard.

Mr. Davis: How long can you defer that increase? Can you defer it three, four or five years?

Mr. Lavery: Subsection 68(3) does not contain a limitation on the length of carry forward.

Mr. Davis: I own an apartment building and because I want to retain my clients, instead of taking the normal increase per year, I run it for four years at, say, two per cent instead of 4.5 per cent. In the following year, can I claim eight per cent plus the 4.5 per cent, which is a 12.5 per cent increase?

Mr. Lavery: The legal mathematics, that is correct.

Mr. Davis: I am not good at math, but I can do a bit. Therefore, as Mr. Callahan was saying, if I then rent it, the new renter picks up an increase of 12 per cent if he wants the apartment.

Mr. Callahan: May I go back? You are talking about the automatic increases not going to review. As well, you cannot wait three years or five years and then go for the reviews. You lose those unless you take them in the year in question, I gather.

Mr. Lavery: In any particular year, you have a choice of either going to rent review and putting in all your information or, alternatively, taking the increases in section 68, which include both the guideline and the maximum rent provision that we are currently discussing.

Mr. Callahan: Then the short answer is that the rent review, over and above the established guideline, is not accumulative. If you do not take it in a year, you have lost it.

Mr. Laverty: If I understand it correctly, if you do not take it under subsection 68(3), you can take it in a subsequent year without a rent review. You have not lost the increase for ever. Under the current system, you would have. If you failed to increase the rents by the maximum amount you are legally entitled to, you would lose it for all time to come.

Mr. Callahan: I want to be clear on that. You are entitled to accumulate the amounts by which the rent can be increased without an application. You have said that. You are not entitled to accumulate an increased amount that you might have been entitled to had you applied for an increase over those years.

Mr. Laverty: Yes. You cannot say: "If I had gone to rent review I could have got 10 per cent. Therefore, that is my base."

Mr. Callahan: The only year in which you can do that is in Mr. Davis's example. If you forgave them for four years, in the fourth year you could catch up the difference between that and a nonapplication you had missed.

Mr. Laverty: Yes.

Mr. Callahan: That same year you could apply for an increased amount, but only in the year in which you chose to go the application route.

Mr. Laverty: The only time you must make an application is when you are going beyond what section 68 allows. In most cases, the only way you can do that is by justifying it on a cost consideration.

Mr. Callahan: I just want to be clear on that too. Let us say that for three years you took two per cent and you were entitled to four per cent. You held on to that, and then in the third year the landlord applied to rent review to justify a greater increase. Would he then be entitled to the cumulative amounts he had missed out on without application and be able to add that to the increase that he proves in the year in which he takes it?

Mr. Chairman: Mr. Church is going to make it a little clearer.

Mr. Church: I hope so, but given Mr. Reville's interjection about my last interjection, I will be short and careful. Basically, we have a new concept and that is the distinction between an actual rent and a legal maximum rent. At the moment, your actual rent is your legal maximum rent. In a great many instances that has wreaked economic hardship on one party or another where it was appropriate not to have a rent increase in that year.

What we are now talking about is a system in which the legal maximum rent is registered and known to everybody, and if market conditions result in the landlord either not being able to achieve the legal maximum rent or for some reason not wishing to achieve the legal maximum rent, he may charge less and move back to the legal maximum rent without penalty.

3:30 p.m.

Obviously, the principal reason for that is to allow people who are benefiting from a lower-than-market rent or a lower-than-legal rent to continue to benefit from it and not to create a disincentive.



However, you are quite right in your observation that if a landlord wants to apply to rent review for costs in any given year, he loses that and cannot bank that against some future rent increase. If you look at it from a market point of view instead of from the point of view of this bill, what we are talking about is a system in which, for ever, legal maximum rents will increase by the guideline unless you get a rent review, even if your actual rents do not go up that fast.

Mr. Callahan: That was the reason I was asking that question. My understanding of the act is that this is exactly what happens: You are automatically credited. But is that only on the rent registry?

Mr. Church: The rent registry is where the legal maximum rent is recorded. The landlord can charge the legal maximum rent--

Mr. Callahan: Or less.

Mr. Church: --or less. He can charge only one increase in every 12 months, and that increase can be up to but not necessarily as high as the legal maximum rent. If we kept the old system, we would be virtually guaranteeing that everybody would pay legal maximum rent.

Mr. Callahan: Is that not going to confuse the heck out of the guy who comes along to rent the property for, say, \$400, while the legal maximum rent on the registry is \$425 or \$450?

Mr. Church: That is the reason we have the two notification requirements. It will be impossible for a tenant who is even vaguely attentive to his affairs to go into a unit without knowing that the legal maximum rent may be substantially higher than the actual rent.

I will give you the example of a new building. Virtually every building that comes on the market comes on at substantially below break-even levels, assuming that we get to the day when new rental buildings come on the market. At that point, if the landlord is bound by law to charge only four per cent more than his initial rent, he will go broke very quickly and the banks will own the building.

To prevent that, the landlord has to be able to establish an economic rent--we will get into this later, but it is the same concept--that reflects a realistic rent, even though he may charge substantially below that. However, we are saying in this bill that he cannot do that without alerting the tenant in advance to the fact that the market rent is substantially below the legal maximum rent.

Again, to be realistic, we all recognize that in this market, particularly in Toronto and Ottawa, legal maximum rents and actual rents will have a great deal of commonality; there tends to be pressure above the market rather than below it. But what we want to do and what this bill does is to provide for circumstances where market rents are, for some reason, likely to be below.

Mr. Callahan: And to maintain the right for the landlord to catch up if he chooses to do so.

Mr. Church: That is right: not to warp the system.

Ms. E. J. Smith: Mr. Church covered my question. I was just going to

say it seems to me that what is being said here is that the whole act is changing and is controlling what you can charge rather than what you do charge; it is rather simple that way. Obviously, looked at that way, it seems quite simple that if you do not charge someone, either because he cannot afford it or because the town is broke because of a strike, it has nothing to do with what this bill is saying. The bill is saying what is chargeable.

Mr. Church: That is right.

Mr. Davis: I am not quite sure I understand it yet; I thought I did. Let me ask Mr. Church a question. Let us say I own an apartment building. The rent increase I am allowed to charge is four per cent but, for whatever reason, I charge two per cent and I do that for three years, as Mr. Callahan pointed out. Now there is a buildup, if I am correct, of six per cent.

Mr. Church: That is right.

Mr. Davis: I am going into my fourth year and I decide to make a rent application. On the basis of all kinds of factors, I am going to ask for a 10 per cent increase. Can I ask for the 10 per cent plus the six per cent, which is 16 per cent?

Mr. Church: Not exactly. If I can take you back to the point where you own a building with a four per cent legal maximum and you take only two per cent, your unit will still be registered with a legal maximum rent that is four per cent higher. You will be charging two per cent higher.

The next year your legal maximum rent will be four per cent higher again. You are charging only four per cent more than the base, and so on for three years. When you apply to rent review, you are applying for an increase in your legal maximum rent, not on what you happen to be charging whoever the tenant is. If, for example, the tenant is your mother, you may be charging substantially less.

Mr. Davis: If I understood this gentlemen he said, and I quote: "I had the application. Without the application I could move that six per cent up."

Mr. Church: You may if you have the legal right to raise the rent. In other words, if it has not been raised in the past 12 months, you may raise it up to the legal maximum limit. If you choose to go above that, you have to go to rent review.

Mr. Davis: If I go to rent review, can I do both? Can I go to rent review and say I want a 10 per cent increase for whatever reason, property upgrading or capital expenses, and bring it up to the rent level of six per cent?

Mr. Church: Bringing it up is not an issue for rent review.

Mr. Davis: I can just do that.

Mr. Church: Your legal maximum rent--

Mr. Davis: In other words, at the end of four years I can have an increase of 16 per cent?

Mr. Church: You could have a substantially higher increase. For

example, if you had not had an arm's-length relationship with your tenant--in a surprisingly vast number of cases, that is the way the rental structure operates; you have a friend, a relative or someone for whom you have considerable sympathy renting a unit at dramatically below prices. Perhaps for some reason you have some other kind of relationship--superintendent, for example--if you choose to raise the rent of that unit to the legal maximum rent, you may do so without going to rent review. If you incur certain costs that allow you to raise your whole scale, then you take it to rent review to raise your scale.

Mr. Davis: What you are saying in effect, as I understand it, is that at this point I raise it to the rate it should be. I go to rent review, I am lucky and get the 10 per cent. Then my clients in that apartment building will face a 16 per cent increase.

Mr. Church: That is correct. We would like to point out that with the present mentality in the market, the way you just phrased it is the way people are generally viewing it, that rent should be going higher every year. Essentially, the market is not working because there is no supply to speak of. We are looking at the eventuality in which a landlord cannot achieve in the market the rents he would like to achieve. In that instance, we want to create an incentive for competition.

Mr. Chairman: Are there any further questions before Mr. Laverty moves on?

Mr. Laverty: I will now move to the third of the five sections dealing with rent justification. In this part of the presentation we will review the following nine topics: operating costs, capital expenditures, financing costs, financial loss, economic loss--which I will explain as we go through--chronically depressed rents, hardship, the treatment of maintenance and services, and costs that are no longer borne.

I suggest that I pause at the end of each of the subsections to take questions, given the complexity of this part.

Starting with operating costs, under the Residential Tenancies Act, which is the legislation currently governing rent review, operating costs were awarded after an item-by-item review of expenses. This created three problems. First, tenants objected to landlords who shifted operating costs into the years they went to rent review. In order to maximize rent increases, they simply stacked all their costs into the years they went to rent review. In the years they did not go to rent review, their spending fell again. Second, landlords objected to the bureaucratic process required to document and prove every expenditure being submitted. Third, both sides objected to the delays inherent in a system that required the validation of each and every expenditure apart from the general administrative allowance and some very minor items.

3:40 p.m.

The solution to these problems is to be found in the fixed operating allowance formula, which is referred to in clause 72(a) and in schedule B of the act. Using this approach, landlords going to rent review will receive an allowance equal to one per cent less than the guideline to cover their operating costs.

In the case of applications relating to financial payments, the full



guideline increase will be awarded instead of the operating cost allowance; that is, they will be awarded the residential complex cost index at rent review rather than RCCI minus one. In large part, this is done because the landlord has very little control over the rates at which he must refinance the mortgage. This provision is outlined in section 73 of the act.

The Rent Review Advisory Committee is further advising us on the appropriate use of either the guideline or the operating cost allowance. Once again, we are contemplating the drafting of potential amendments that will be introduced later on to deal with the results of advisory committee deliberation.

To cover cases of unusual increases, either much higher or lower than the ordinary, clause 72(b) provides for the consideration of extraordinary operating costs. Regulations will be prepared to reflect the Rent Review Advisory Committee's recommendation that costs can be claimed as extraordinary whenever they are either 50 per cent higher or lower than the related component of the building operating cost index or where recalculation produces a variance of one per cent in rent revenues.

Apart from extraordinary costs, detailed costs on each operating item will have to be submitted only where they are necessary to prove financial or economic loss, hardship or a chronically depressed rent, as will be indicated in section 74. Even here, there will be some cases where costs documented in a recent rent review will be used.

In section 82, provision is made for tenants or landlords to obtain a recalculation of the degree of financial or economic loss, or extraordinary operating costs, within two years; otherwise, apart from this provision, losses will be phased out automatically over the next few years, as I will describe shortly. That is going to be covered in section 89.

That completes the comments on the operating cost allowance.

Mr. Davis: Mr. Chairman, just for clarification--

Mr. Callahan: Do you want him to "play it again, Sam"?

Mr. Davis: You have stated that on the fixed operating costs or financing, where the person has to refinance, he would be awarded the RCCI.

Mr. Lavery: That is correct.

Mr. Davis: Let us say the refinancing costs were six per cent, and RCCI was four per cent; there is a two per cent difference that the landlord picks up.

Mr. Lavery: If his financing cost produced a six per cent increase in rent revenues, he would claim that six per cent plus--in this particular case--RCCI, which you have assumed to be four per cent. His overall rent increase award would be 10 per cent, four per cent of which would cover his operating items and six per cent of which would cover the financial payments.

Mr. Davis: So he gets reimbursed for his total financial cost.

Mr. Lavery: Yes.

Mr. Chairman: Any other questions, Mr. Davis?

Mr. Davis: No.

Mr. Chairman: It is obviously sinking in well, Mr. Lavery.

Mr. Callahan: You spoke about financial and economic loss. I note there is a special definition of economic loss in the first section of the act. Can you explain that, or have we gotten to that stage yet?

Mr. Lavery: We have not gotten to that stage, but I suppose we could deal with it now or when we discuss economic loss.

Mr. Callahan: I see it fitting in and being more meaningful now than it would be later on. I do not know what the other members of the committee think.

Mr. Lavery: To start with, financial loss is where costs are greater than revenues. In that particular case, you are earning a financial loss in the ordinary definition; that would be computed on a cash basis. In the case of the economic loss, you would be earning--

Mr. Callahan: Excuse me, what do you get over and above your four per cent there?

Mr. Lavery: It depends.

Mr. Callahan: Do you get RCCI?

Mr. Lavery: For the operating cost allowance? You have to remember the operating cost allowance is a separate item for the allowance you get for financial loss.

All we are saying at this point is, if you have a refinancing, your operating cost allowance will be equal to RCCI, whereas if you have capital expenditures, for example, you get the operating allowance, which is equal to RCCI minus one.

We are talking about the differences in the rules for the allowance of operating costs when the application otherwise deals with various other provisions. It would be best to wait until we get to the particular section that deals with the economic loss treatment. Maybe I could continue with the definition of the economic loss for your information at this point.

Mr. Callahan: If he feels it is better to leave it, I am prepared to wait.

Mr. Chairman: Okay. Let us leave it.

Mr. Stevenson: These may be foolish questions, but I want clarification for my own situation. Where you have a year-over-year increase where there has been no refinancing and no capital expenses, then the guideline increase is RCCI?

Mr. Lavery: Yes.

Mr. Stevenson: In a situation where there was a capital expenditure, you would ask for a rental increase that would be in line with that or would reflect that capital expenditure plus RCCI minus one?

Mr. Lavery: That is correct.

Mr. Stevenson: In a situation where you have a refinancing during that time, it would be an increase reflecting refinancing cost plus RCCI?

Mr. Lavery: That is correct.

Mr. Stevenson: And that is what you have said in the last four to five minutes?

Mr. Lavery: More or less.

Mr. Stevenson: Thank you.

3:50 p.m.

Mr. Lavery: The next section deals with capital expenditures. There are no fewer than eight significant changes in the provisions.

First, under the Residential Tenancies Act, the interest allowed on borrowed funds or the landlord's own funds is set at the discretion of the commissioner hearing the application. Under the new act, clause 75(1)(a), the amount to be awarded will be set out in regulation, thereby ensuring consistent treatment with the associated reduction in uncertainty.

Second, current legislation does not provide explicitly for payment to the landlord where he performs the work involved in a capital expenditure; for example, if he himself does the painting. While the Residential Tenancy Commission will often recognize such work, clause 75(1)(b) in the new legislation will guarantee a proper consideration for the landlord's efforts.

Third, the current rules recognize only the direct cost involved in the expenditure. In the new system, under clause 72(d), the indirect cost in supervision of work performed for overhead related to the administration of one's own staff will be recognized in a fixed allowance that will be set by regulation. By providing for all the cost-related capital expenditures, indirect as well as direct, this should encourage necessary repairs and improvements.

Fourth, clause 72(c) in the new act provides a legislative base to make corrections where actual costs experienced by a landlord can be established subsequently as different from the cost allowed in an initial rent review application. Because of the lack of an explicit authorizing provision under the current act, some commissioners have not made such corrections.

Fifth, under the current act, capital improvements that affect only some units and not others will result in rent increases on all the units in the building. Thus, at present, special features can be provided to some tenants with the cost largely borne by others in the building. This unfairness is corrected in the new legislation. Capital expenditures that benefit only some units will have the cost borne by those units. This allocation can be made either as part of a whole-building rent review under paragraph 79(1)(3) or in a new part-building review, in sections 83 and 84, where the tenant and the landlord can apply jointly for the agreed-upon improvements. Not only will this new process produce a fairer allocation of costs, but it will also increase the ability of landlords to respond to the special requests of tenants for desired improvements.



Sixth, one of the greatest barriers under the current system to capital repairs and improvements is the uncertainty of rent review treatment in that the expenditure usually must be made before finding out the interest rate to be allowed or the approved write-off period for the expenditure. The solution to this is to be found in the system of binding predetermination outlined in section 86. Under this approach, the landlord may obtain a conditional order specifying the treatment of capital items before making the expenditure commitment. After making the expenditure, the landlord would submit his final expenses and receive an award consistent with the prespecified conditions.

Seventh, of particular concern to tenants are those landlords who fail to properly maintain their buildings, allow substantial deterioration to develop and then claim capital expenditures needed to reverse the situation. Section 93 provides that where the landlord applies for a substantial capital improvement, and it can be shown that such an expenditure was necessary as a result of the landlord's ongoing, deliberate neglect, rent review can refuse to recognize part or all of the expenditure in determining rents.

Eighth, currently, when the landlord makes a replacement capital expenditure, he continues to collect the amount related to the previous item as well as obtaining an amount related to the new expenditure. This double cost recovery has been of considerable concern to tenants. Under subsection 75(2) of the new legislation, 80 per cent of the previous expenditure will be rolled back when an award is made on a capital item that replaces an expenditure initially made from August 1, 1985, onward.

To summarize this somewhat lengthy discussion of capital expenditures, we have a slide showing what we believe the new treatment of capital expenditures will provide.

First, it will provide for greater certainty, and it will do so because of the system of binding predetermination we are introducing. The regulated interest rate will exist on all expenditures instead of on the amount awarded at the discretion of the commissioner. All the other rules regarding the treatment of capital expenditure will be regulations, as opposed to being at the discretion of the administrator.

The second item of reduced negative behaviour refers to two things: (1) the process of cost correction I discussed previously and (2) the provisions related to deliberate, ongoing neglect, which could lead to a capital expenditure not being recognized for cost pass-through. The improved fairness relates to the part-building review, which will match rent increases to the units benefiting from the capital expenditures made.

The economic balance covers two things: (1) the management and administrative allowance and (2) the 80 per cent rollback of previous expenditures being replaced. On this last item, the next slide deals with the economic balance in this legislation on the treatment of capital expenditures and the major changes involved. The contrast, of course, is that of the current system under the Residential Tenancies Act and the proposed system in Bill 51.

Section A deals with the initial capital expenditure; section B relates to the replacement of that capital expenditure. For the purposes of our example, the initial capital expenditure is taken as \$100 per unit of capital cost. This is going to be written off over 10 years at a 12 per cent rate of return. If you perform the necessary calculations under both the current and proposed systems, that works out to \$1.42 a month per unit.

4 p.m.

The second line deals with the management allowance, which includes the amounts related to the supervision of the capital project. In this particular example, it is calculated at 7.5 per cent of the capital amount, 7.5 per cent of \$1.42 being 11 cents. As you can see, it is a new provision which did not exist in the previous legislation.

This means the rent increase due to the initial capital project is slightly higher under the new system than under the old system. It is \$1.53 per unit per month as opposed to \$1.42.

When the capital expenditure is replaced, we have a new calculation based on a replacement expenditure of \$150. The reason for the higher amount is an assumption that inflation is going on between the first and subsequent expenditures, so that to do the same thing now costs more money. Once again, we are going to write off the same expenditure over 10 years at 12 per cent interest. Because it is an amount 50 per cent larger than the initial expenditure, \$2.13 per unit per month will be awarded for this capital improvement. The management allowance, which is new to the proposed system, allows for 7.5 per cent, which works out to 16 cents per unit per month.

The next item deals with the 80 per cent reduction in the initial award of capital cost. This works out to 80 per cent of the \$1.53 allowed as the total for the initial capital expenditure; 80 per cent of \$1.53 works out to \$1.22. When you sum the column, you find that under the Residential Tenancies Act, the current act, the landlord will get on replacement an additional \$2.13 per month. Under the new system, he will get \$1.07 a month.

The total rent increase for the first and second expenditures under the current system is \$3.55. Under the new system it is \$2.59. This indicates that in terms of economic balance the 80 per cent rollback of the initial capital cost can be, usually, far more important than the award of the 7.5 per cent management allowance.

This completes the comments on the capital expenditure part of the presentation.

Mr. Callahan: I want to go back to subsection 75(2). Would this be the case if a major capital item had been purchased a year ago, an application had been made under the previous legislation for an increase, there were no guarantees or warranties on it and it had to be replaced again? You could still have that 80 per cent rollback?

Mr. Lavery: One year ago, it would have qualified under this provision and there would have been an 80 per cent rollback. This matter was discussed at great length by our advisory committee. They recognized that in any individual case there might be an expenditure which lasted either for more or less than the allowable period, but on balance they felt the 80 per cent rollback provision would be in all cases the simplest and most direct way to deal with the situation.

Mr. Callahan: The reason I ask is that if a landlord were faced with having to put in an entirely new heating system or air-conditioning system, if it went kaput, there were no warranties on the work or the materials and he had to put in another one after this came into place and got, I gather, only a 20 per cent allowance for the previous air-conditioning system, would this not result in a financial hardship to the landlord?

Mr. Lavery: If as a result of this the landlord were put into a position of financial loss, then he could have relief under this provision in that case, but if it merely meant a reduction in his overall net income, then you are correct that he would be in a less desirable net income situation than if that uninsured loss had not occurred.

Mr. Callahan: I gather this was a result of the meeting of the minds between the two parties and the two groups?

Mr. Lavery: Yes.

Mr. Callahan: Thank you.

Mr. Chairman: Are there any other questions or comments?

Mr. Reville: I am not going to be argumentative, Mr. Chairman. I just have a question for information this time.

In sections 83 and 84, the part building review sections, subsection 83(2) talks about 25 per cent. I assume that means that if you have more than 25 per cent of the units affected, then you do a whole building review.

Mr. Lavery: That is correct.

Mr. Reville: Is there any reason for 25 per cent? Is that seen as the optimum number for a particular reason?

Mr. Lavery: Once again, it is a tradeoff. It was thought that if you had a very high percentage of the units in the building subjected to a capital cost, then probably the overall nature of the expenditure would be such that it would ordinarily come in for a whole building review under the previous system. Therefore, it should continue to be treated as a whole building review.

Mr. Reville: Thank you. I have only one more question. In terms of section 93, ongoing deliberate neglect, are you aware of similar provisions in other jurisdictions and whether any law has been developed on this? I have difficulty in imagining that this clause would ever be operative, but I can see lots of reasons for you to be able to say that it was not deliberate neglect and reasons for you to say it was. I do not know whether it is neglect to delay replacing a major system until it really is expensive. I do not know how you decide that question.

Mr. Chairman: Sorry. What section?

Mr. Reville: It is section 93. If you make an application for a capital cost and you have been found to be wilfully neglectful or you let the building go to hell and therefore should not be given the capital cost. I see the intention is an admirable one. You do not want to reward a landlord for neglecting the building. Are you aware of any law on this anywhere?

Mr. Lavery: I am not aware of the exact same provision. I understand that in New York City at one time they had under this system of rent stabilization a provision whereby you could not increase your rents where you were in violation or where you reduced your standards, but that is a somewhat different provision to this one.



Mr. Reville: That is more similar to the maintenance board stuff, is it not?

Mr. Lavery: Yes. That would be much more similar to the maintenance board than it would be to section 93.

Mr. Reville: If anybody finds out anything, I would be interested in hearing it.

Mr. Jackson: It is a subtle question. In the last line of section 93, it says "neglect in maintaining the residential complex or any rental unit therein." Is that due to the landlord's neglect or to the landlord's neglect at maintaining it when the tenant moves out? Is that what is implicit there?

Mr. Callanan: No. The residential complex talks about the common areas and the rental unit is the unit that is within the common areas. I gather this would be the halls they are talking about and the floorways vis-à-vis the apartment itself.

Mr. Jackson: Is that correct?

Mr. Lavery: Yes. There is a difference between the residential complex as a whole and the particular unit that a tenant would occupy exclusively.

Mr. Jackson: In the last line of section 93, "or any rental unit therein" is referring to common areas. It is not talking to the specific tenant's unit.

Mr. Lavery: No. The residential complex refers to the common areas. The rental unit therein would deal with the individual units in the building.

4:10 p.m.

Mr. Jackson: Then I go back to my question. That implies there that the landlord is obligated to maintain it regardless of the condition in which the tenant is currently living or has left it in?

Mr. Lavery: The phrasing refers to the landlord's ongoing, deliberate neglect. It is a question of the landlord in question, rather than anything the tenant might be doing.

Mr. Jackson: Let us say a tenant brings in dogs, which make the broadloom in the living room their home. Is it the landlord's neglect that he has not replaced the carpeting for the dogs or the tenants?

Mr. Lavery: There are provisions under the Landlord and Tenant Act as to the division of responsibilities for maintenance between the landlord and tenant. I imagine a similar interpretation would be made here. If the tenant is willfully destroying property, it is pretty difficult to conceive that we would regard it as the landlord's ongoing, deliberate neglect that was causing the situation.

Mr. Jackson: I have no difficulty with a common area of responsibilities; I am having difficulty with the landlord being charged with deliberate neglect of a premise to which he has access only with the permission of the tenant.

Mr. Lavery: There might be some circumstances that might be easier to see. For example, if you had a problem with excessive leakage through the walls and the tenant had informed the landlord that condition existed, every time it rains the apartment was flooding and bricks might start falling away from the building, if notwithstanding the tenant informing him on a number of occasions and possibly work orders existing on the building, the landlord continued to do nothing, then that might still be the landlord's ongoing, deliberate neglect, even though it might relate to a single unit. There might be other circumstances of that nature.

Mr. Pierce: In capital expenditures under the landlords' own labour, clause 75(1)(b), would the landlord have to show he has taken money from the project for his labour, or can it be considered an additional investment in his property?

Mr. Lavery: He would not have to do it through a paper transaction to pay himself. All he would have to do is to establish that the work was done and that it was his labour that did it. Then he would get an allowance which would be equal to the value of the work.

Mr. Pierce: How do you define the value of the landlord's work if he goes in and does a particular project strictly on his own, if he adds additional space to the apartment and does all the painting, electrical work, plumbing and everything on his own? Does he submit what he considers to be fair labour costs on his behalf?

Mr. Lavery: He would have to submit evidence of the amount, the extensiveness of the work done. Then it would have to be judged by the administrator in the context of similar work done for other landlords by outside people as to what that project would be worth. Obviously, it is going to be a difficult thing, but it is certainly a lot better than not giving him anything.

Mr. Pierce: That is interesting.

Mr. Lavery: The next section deals with financing costs. Under subsection 72(b), financing costs may be used to justify rent increases. The act does not detail the specific treatment of these expenditures, nor indeed does the Residential Tenancies Act at present.

It is proposed that most of these matters be covered under legally binding regulations under section 114 of the act, and in particular subsections 3 and 34, and that this approach will replace the current system, in which nonbinding guidelines are used by commissioners to exercise a wide degree of discretion in dealing with individual applications.

Regulations are currently being drafted with the advice and approval of the Rent Review Advisory Committee, which has already made a number of proposals with regard to the treatment of certain kinds of financing payments through various government programs and various types of mortgages.

That is all I propose to touch on in financing costs.

Mr. Davis: I wonder whether it is the intention of the minister or his associates to table those regulations, as was done with Bill 30. There were a number of items contained in the regulations, and the minister kindly agreed or offered to table those for the committee for its information. Will

the kinds of venues that are being placed within regulations be given to this committee so we can have a look at them?

Mr. Chairman: I do not know whether the deputy can speak to the minister or not.

Mr. Church: We have received instructions from the minister that, as soon as the regulations are ready, if they are relevant to the discussions of this committee, we will bring them here. I should say now as the discussion is unfolding that it will obviously be a very long period of time before all the regulations on all the subjects are in place. It is our hope and intention that the regulations that are necessary to begin implementation of the bill be in place by the time the bill passes. With the commitment to consult with the landlords and the tenants every step of the way, that places a rather heavy burden on them. I suppose this is by way of building up to an excuse.

All the vital regulations, such as the calculation of the building operating cost index and the setting of the guideline, will be available. Some of the more speculative ones--for example, those dealing with the licensing of consultants and dealing with the standards board--where, as we heard this morning, there is a great deal of negotiation to do with the Association of Municipalities of Ontario and other groups, will probably not be ready prior to the passage of the legislation. There are some components of the bill that simply will not be implementable as quickly as the registry and the new guideline.

Mr. Davis: We will get the regulations the government would like us to see, and the rest we will get in some other forum.

Mr. Chairman: The other way of putting it, Mr. Davis, is that we will get the regulations as soon as the government has completed them.

Mr. Church: Precisely; actually, as soon as the Rent Review Advisory Committee has advised the government on the regulations it has completed. I do not want to let the rack off too easily. I see certain members are ducking.

Mr. Davis: The rationale for asking this was that in those regulations--and I can only draw on my experience with Bill 30--because of the discussion, there were contingencies made in the regulations that, in the opinion of the committee, made it more appropriate. It would be appropriate for us to see them.

Mr. Church: There is no question. We realize that a major portion of the ultimate success or failure of this legislation rests in both the regulation and the operation of the staff. The one thing we have going for us is that the recommendation of the Rent Review Advisory Committee is extremely detailed and explicit and the government's commitment is to implement that. Even in the absence of the regulation, we can talk pretty specifically about what we intend to do. We can make commitments to the House and the members on the intended content, recognizing that many of the individual components may require development of computer programs and other things before we can actually do them.

4:20 p.m.

Mr. Lavery: The next section deals with financial loss. The one other reference that relates to financing costs mentioned in the act refers to the limitation related to the purchase of buildings. This is contained in



subsection 76(1), where such financing costs can be passed through only to the extent necessary to eliminate a financial loss. Where there is a financial loss on purchase related to the increase in financing payments, the loss will be eliminated according to the following rules.

First, the proportion of the rent increase in each year that is due to refinancing shall be no more than five per cent in any year; so the amount of a loss pass-through that is due to refinancing is limited to five per cent. That is covered in subsection 76(3).

Second, after establishing the amount of financial loss in the initial year of the application, the subsequent years of phase-in will no longer require additional applications to rent review. The amount of the phase-in will be simply added to the guideline increase in later years. The ministry will inform the landlord annually as to how much he can charge in the next year and the landlord will be required to pass that notification on to the tenants. This will mean that instead of coming to rent review every year, which may go on for five or six years, to rehear the same information, there will be one rent review and the subsequent years will be handled automatically.

Third, under section 82, in the first two years both tenants and landlords will have the right to ask for a recalculation of the loss on the basis of ensuring that operating costs were not unduly inflated in the initial application or, I presume in the landlord's case, if they were unduly depressed.

The five per cent maximum on the annual phase-in will apply in all cases except, first, where there were sales of post-1975 buildings which occurred before April 18, 1986. This provision has to do with the retroactivity problems of sales between August 1, 1985, and April 18, 1986, which happens to be the date on which the rent review advisory committee reported on this item.

The second exemption from the five per cent maximum annual phase-in will apply in the case of sales involving what are known as merchant builders. This is found in clause 76(6)(a).

The merchant builder provision requires some explanation. Over the past number of years there has developed a degree of specialization between those who have the skills to develop land, construct buildings and manage the initial period of renting up on the one hand and, on the other hand, those investors who want to participate in the longer-term investment and responsibility for the project.

Such arrangements depend on a building sale either shortly after completion of the building or after reaching a certain level of occupancy. If such sales were to be limited by the five per cent annual rent phase-in, such ventures would be rendered uneconomic and a substantial source of new supply would be lost.

To provide the division between those who build the building and those who are interested in long-term ownership, the initial sale of that building will have to be exempt, otherwise the deal will not be financially viable.

Finally, when the landlord borrows funds to cover a financial loss, interest paid on such losses will be an eligible cost for rent review under subsection 76(7).

That completes the remarks on financial loss.

Mr. Chairman: Are there any questions of Mr. Laverty?

Mr. Reville: In respect of section 89 at the phase-in of financial loss on purchase, the landlord is required to notify tenants. Would those phase-ins appear in the registry as well?

Mr. Laverty: I guess they will.

Mr. Reville: It is fine if I am notified, but if I move out and new tenants come in, they may be subject to five per cent plus the guideline for umpteen years and they would not know.

Mr. Laverty: Subsection 89(2) provides for notice by the minister to the landlord and provides for the entry of that information in the rent registry; so it will be available through the rent registry.

Mr. Reville: Are merchant builders the same as turnkey contractors? It is not very important.

Mr. Laverty: I am not sure they would be the same in all cases. I do not think so.

Mr. Reville: I have one concern that relates to clause 76(6)(b). What it does is create yet another category of building based on an April 18 agreement to purchase or a building permit. That strikes me as not for dated categories of buildings. Has the ministry given any consideration to trying to reduce the difference? I have this vision of tenants going out and looking at the cornerstone every day to try to decide what rules apply to the building. If there is a way to compress the number of categories by date, it would make sense and would reduce the amount of educational programming that would be necessary. That was a speech rather than a question.

Mr. Chairman: I think Mr. Church wants to respond to your speech.

Mr. Reville: I think he agrees with me.

Mr. Church: I say, "Hear, hear." There is no question that the retroactivity and the nature of the policy development have led to a situation in which the government will have an extremely interesting time creating a comprehensible system. As members have noted in terms of our staffing, at the base of this whole bill is a commitment from us to make this understandable. I can only say, yes, indeed. We hope it will not be the tenant who has to check the cornerstone, but we will have to check it and reflect on the registry at a regular rate. It should provide many hours of merriment for Fred and his staff.

Mr. Reville: I take it that means it is going to stay.

Mr. Laverty: The next section deals with the provisions related to economic loss. The definition of economic loss would relate to those circumstances in which a new building is earning more than a break-even but less than the economic return that is deemed equivalent on alternative investments. As we go through the description of the return, we hope it will indicate what alternative investments we have in question, so that he is earning an economic loss in the sense that his return is less than on other investments in which he could choose to invest.

4:30 p.m.

By way of a preamble to these provisions, the view that lies behind the bill is that new private rental supply is essential in meeting the housing needs of Ontario. Failure to involve the private sector would result in extensive financial requirements on government. The key to private participation is to be found in a system that recognizes the role of a fair rate of return in attracting investments. For buildings first rented in the 1976 to 1986 period, this rate was considered by the advisory committee to be 10 per cent on the capital base. That is covered in subsection 77(1).

For future buildings, it was recognized that the rate of return must be responsive to the general level of return on alternative investments. The rate selected was a 10-year Canada bond rate plus one per cent. The extra one per cent was to recognize the extra risk and management efforts involved in a rental investment. Again, a three-year average was used to smooth out the peaks and valleys in interest rates.

The rate of return is to be calculated on a capital base that includes (1) the amount of the landlord's initial investment of his own funds, (2) the amount of any subsequent investment he must make to cover financial losses and (3) the amounts of legitimate debt that are not permitted for cost pass-through as a result of rent review rules. This refers in particular to the provision under rent review that you cannot borrow and pass through debt of more than 85 per cent of your building value.

As in the case of capital expenditures, a system of binding predetermination has been worked out to allow investors to be certain of their rent review treatment before investing their funds. This is covered in section 85. In addition to the limitation on overall return allowed to a landlord of a post-1975 building, further limitations are imposed on the rate at which the economic return can be phased in. These are outlined in subsection 77(2). I will tell you briefly what they are.

In the case of buildings for which a building permit was issued up to July 1, 1986, the phase-in will be the greatest of a five-year elimination of the economic loss, five per cent a year and the elimination of financial loss. For buildings where the building permit was issued after July 1, 1986, the phase-in will be the greatest of the elimination of financial loss, a total rent increase of 10 per cent and a total increase of three times the rent guidelines.

Mr. Callahan: Is that not backwards? Did you say where the building permit was issued after July 1?

Mr. Lavery: Yes.

Mr. Callahan: The act says "the lesser of."

Mr. Lavery: What the act says is the lesser of either the total amount required to eliminate the economic loss or--

Mr. Callahan: It is not "or"; it is "and."

Mr. Lavery: --the greatest of A, B and C. The reason for subsection 1 is--let us say the highest of A, B and C is the 10 per cent mentioned in B. In a case in which the total financial loss is equal to only three per cent, the award will be three per cent and not 10 per cent. In other words, you do not eliminate more than the amount required to eliminate the full financial loss.



Mr. Callahan: The only thing I was addressing was that you referred to the case where a permit is issued. You said before July 1, and I thought you were reading the section dealing with the permit that was issued after July 1. I thought you mixed them up.

Mr. Laverty: Did I?

Mr. Callahan: I do not know. Are you reading from notes in front of you? If you are, read them again and we will find out whether they were mixed up.

Mr. Laverty: The group that deals with the 10 per cent and three times the guideline is prefaced with a comment concerning buildings "where the building permit was issued after July 1, 1986," and the phase-in is the greatest of A, B and C as they read in the act, but that is subject to the provision that if all of those are greater than "the total of the amount required to eliminate the remaining economic loss," then it is the lower amount.

Mr. Callaghan: The accountants are going to have a field day with this.

Mr. Chairman: At some point we need a map or a blackboard to have some numbers in front of us that would be easier to work through than these words.

Mr. Laverty: Right.

Mr. Haggerty: Just to follow Mr. Callahan's comments, I think I raised the matter previously here. If I am looking at clauses 77(1)(a) and (b), then I am looking at what?--a return of 11 per cent in total if you are looking at Canada Bond rates, which may be 9.75 per cent? At one per cent above that, we are looking at a fair return of what, then?

Mr. Laverty: If the Canada Bond rate were 10 per cent, on a three-year average it would be 10 per cent plus one.

Mr. Haggerty: Then it would be an 11 per cent return on your investment.

Mr. Laverty: Yes, that is correct. This, of course, applies to the buildings that are post-1985. These are the only buildings that qualify for the elimination of economic loss.

Mr. Haggerty: That would take in the equalization section 80 of the bill, where you can have a person living in a building built before 1976 paying, in some cases, a rent of \$340 and the next one in the same building, same floor, because of the turnover in tenants, could be paying \$700. Is that all taken into consideration when they follow that principle of the bill and say, "Yes, after equalization of the rents you can still have the 11 per cent on top of that"?

Mr. Laverty: Equalization does not affect the total amount collected in the building. What it does affect is the amount collected on individual units. One tenant may be paying a lower rent than other tenants in the building. The purpose of equalization is to even that up, so they are all paying equivalent rents.

Mr. Haggerty: Then you could look at almost 100 per cent increase on some of these apartment buildings, on that factor alone.

Mr. Laverty: The full amount of equalization might be that large, but the annual change that would be allowed under sections 79 and 81 would be five per cent a year.

Mr. Haggerty: That is an additional bonus on top of the 11 per cent.

Mr. Laverty: It would mean that the people on the lower end who were paying relatively less for their units would have a higher percentage increase, whereas those who were paying more would be having a lower rent increase, so the total amount--

Mr. Haggerty: I cannot see that in there. It does not say "lower."

Mr. Laverty: That is how it would work. There would be no increase in the total amount of rent collected by the landlord. The equalization provision changes rents within a building but the overall level is controlled so that the landlord does not collect windfall amounts simply because he has uneven rents.

Mr. Haggerty: But even in the following year, after that takes place, there would be windfall, would there not? The overall picture of four per cent of that would be a substantial increase to the landlord if he gets the full amount.

Mr. Laverty: The total amount he would be collecting from the units that were at the low end of the spectrum or the high end of the spectrum would wash out. That is quite a separate consideration from the rest of the provisions in rent review which determine the total amount he gets.

Mr. Haggerty: That should all be taken into consideration, though, in rent increases.

4:40 p.m.

Mr. Laverty: Equalization occurs only after you have decided how much you are going to give him. If you have decided the landlord deserves an overall increase of six per cent, then the total amount of revenues he will be able to collect is six per cent more than he was collecting before. On some units, he may be collecting eight per cent; on other units, he might be collecting four per cent, but the total amount would be controlled to the amount he could justify on the basis of his financial information and would not be affected by the lack of evenness of rents in the units in his building.

Mr. Haggerty: I am not convinced on that, anyway. I have some tables that show me that if you went to equalization--equalize the rents in a complex or building--in many cases, some of the tenants who were there before 1975 are paying maybe \$340 a month in rent and the ones who followed are paying \$700. There is quite a spread.

Mr. Laverty: It is obvious that we will have to run through an example for the committee to look at the figures you might find in that regard.

Mr. Haggerty: I should bring in that table and let you run through it to see what there is. The end product of this would be a capital gain to the landlord.

Mr. Chairman: Perhaps we could ask Mr. Lavery to do that tomorrow, to run it through on a flow chart or a flip chart--or Mr. Church. I did not mean to assume it had to be Mr. Lavery.

Mr. Church: To comment on that point and Dr. Lavery's response very briefly, the difficulty we will be faced with throughout the hearings and the discussions is that the experience under the present system is very much as Mr. Haggerty has described it. A great many landlords--some would say a tiny percentage, some would say a huge percentage--but a good number of landlords have disregarded the law and equalized upwards every time there has been a vacancy.

Mr. Haggerty: They would not do that, would they?

Mr. Church: We do not like to acknowledge that it happens, but it does indeed. With the rent registry and the determination to ensure it does not happen, equalization will now occur only as described in Bill 51, which results in no increase in revenue. I say that not so much to belabour that point, but to indicate that there are many places in the bill where the present practice will be substantially different from the new practice. It may be necessary for the members to recognize that when we talk about the effect of Bill 51, it will be substantially different from the current experience. We will undertake to lay out those instances on a blackboard and be very specific when we come to those clauses.

Mr. Chairman: Perhaps we could do it before we come to those clauses. I think members of the committee would like an explanation now. Can we move on?

Mr. Callahan: I just wanted to enquire about section 85, which I presume is akin to a prior ruling on a tax issue. Prior to the first rental unit being rented, why would you want to refer it for a ruling? I could see a prospective purchaser of the building, a turnkey operation, wanting to apply, but why would the landlord want to? What does he do if he gets bad news?

Mr. Lavery: It is better to get the bad news before he has committed the expenditure than afterwards. That is the principal reason he would have an interest in it. He might well be interested, for example, to know whether certain funds would be treated as debt or equity or what the rate of return on his building was going to be and a whole host of other considerations that might go into his planning.

Mr. Callahan: If he is the landlord and he owns the building, what difference does it make? He is going to have to do it anyway. I could see a prospective purchaser being interested.

Mr. Lavery: What we are talking about under section 85 is that the landlord may come in even before he starts to build the building. Before he has committed the funds, he may come in and try to get hold of enough information about how his building would be treated at rent review that he would decide either to proceed or not proceed with the rental building. He might alternatively decide to develop it as a condominium if he did not think the rent review treatment would be adequate. He would come in and find out with certainty what his treatment would be, and then he would make his decision on that basis.

Mr. Reville: Unfortunately, by the time I got here I had re-read this and I now have a different question.



I would like it if, when you produce an example, you could actually produce a real building example so that it has some flesh on it. I believe I am now beginning to understand section 77, which really troubles me. I will have an electroencephalogram immediately.

Mr. Davis: Perhaps I can have this clarified. In section 77, when you talk about the rate of return in an economic loss, you are essentially saying, as I understand it, that you guarantee the investor--at least, from 1976 to 1986--a 10 per cent return on his investment. After that, it looks like about 11 per cent, but could be more.

Mr. Laverty: It depends on what the Canada bond rate is. If the long-term Canada bond rate fell to eight per cent, he would get eight plus one, or nine per cent.

Mr. Davis: But you are guaranteeing that return on the investment.

Mr. Laverty: Yes. It would be locked in for the life of the building.

Mr. Reville: Are you not worried about the effect on the entrepreneurial spirit of Canada? No, I guess not.

Mr. Laverty: We are looking forward to seeing the positive results of the entrepreneurial spirit of Canada.

Mr. Davis: Just as a point of information, is that a practice in other industries and areas, where you guarantee someone a--

Mr. Laverty: There are a number of other industries that have a regulated rate of return, which is computed somewhat differently. Bell Canada, Union Gas Ltd. and a number of other utility-type enterprises function very largely on a regulated rate of return. Their amounts are regulated either by the federal or provincial governments.

Mr. Church: Also, it is not a guaranteed return; it is a guaranteed legal maximum rent. If the market does not permit them to collect it, they will not make that return.

On new buildings, there is certainly substantial room to believe that the market will not immediately allow them to earn that return. It basically sets a maximum legal rent, but the entrepreneurial spirit will still be there if enough people are building to create competition.

Mr. Chairman: Keeping the time in mind, would you proceed, Mr. Laverty?

Mr. Laverty: For your information, Mr. Chairman, we are about two thirds through the presentation.

Mr. Chairman: It would be appropriate if you could find a convenient time to break between now and 5 p.m., so that we can--

Interjection.

Mr. Reville: We are getting chronically depressed. I think it is a good time to adjourn.

Mr. Laverty: Would you like to start tomorrow with chronically depressed rents?

Mr. Chairman: I guess it depends on whether you want to end or begin a day by discussing the chronically depressed.

Mr. Reville: It can only get better, can it not?

Mr. Chairman: All right. If this is a convenient time to break, we will do that. I assume we will be able to finish the ministry presentation tomorrow.

Mr. Lavery: Undoubtedly.

Mr. Chairman: All right.

Mr. Lavery: Depending, of course, on how many questions there are.

Mr. Chairman: Yes, I understand.

We are adjourned until 10 a.m. tomorrow.

The committee adjourned at 4:48 p.m.





STANDING COMMITTEE ON RESOURCES DEVELOPMENT  
RESIDENTIAL RENT REGULATION ACT  
WEDNESDAY, AUGUST 20, 1986  
Morning Sitting



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)

VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)

Bernier, L. (Kenora PC)

Cordiano, J. (Downsview L)

Epp, H. A. (Waterloo North L)

Knight, D. S. (Halton-Burlington L)

Pierce, F. J. (Rainy River PC)

Reville, D. (Riverdale NDP)

Smith, E. J. (London South L)

Stevenson, K. R. (Durham-York PC)

Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Callahan, R. V. (Brampton L) for Mr. Cordiano

Davis, W. C. (Scarborough Centre PC) for Mr. Bernier

Haggerty, R. (Erie L) for Mr. Epp

Jackson, C. (Burlington South PC) for Mr. Taylor

Clerk: Decker, T.

Staff:

Ward, B., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Lavery, P., Director, Rent Review Policy Branch, Rent Review Division

Church, G., Assistant Deputy Minister, Corporate Resources and Building  
Industry Development

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, August 20, 1986

The committee met at 10:15 a.m. in room 228.

RESIDENTIAL RENT REGULATION ACT  
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The committee will come to order. We have a couple of matters to deal with.

First of all, some material from the research officer has been handed out to the committee. There are excerpts from the Commission of Inquiry into Residential Tenancies, material that Jerry Richmond said we would appreciate. There are also some articles that have been written on Bill 51. Our research officer said members should be provided with a taste of the extensive recent press coverage of rent review. That is that document. From the ministry, some staffing comparisons with some numbers and some work load impacts have been handed out. That is this sheet. You should all have those.

Finally, a schedule of hearings has been distributed. They are all in one package running from now until the end. Rescheduling was attempted to increase the length of time from 15 minutes to 30 minutes for the groups that wanted to appear in Toronto, but we are still short of time, even given the extra week.

What I propose to the committee for your decision is that we add two days of hearings, one of them being next Monday, August 25, and the other being Tuesday, September 2, the day after Labour Day. We had tried to keep that clear. That would give us two extra days, plus that week following the travel hearings during the week of Tuesday, September 30, and the week of Tuesday, October 7.

Ms. E. J. Smith: You definitely still have planned the night of Friday, September 5.

Mr. Haggerty: We cancelled one in Fort Frances.

Mr. Chairman: That is correct. It is simply a case of time.

Mr. Reville: Tuesday, September 2, was an added date?

Mr. Chairman: Tuesday, September 2, and Monday, August 25.

Mr. Reville: Thank you.

Ms. E. J. Smith: With the two extra days, I thought we might be able to move the Friday into one of them. We may have trouble with a quorum or with numbers on a Friday night; I do not know.

Mr. Chairman: We will see whether people drop off. I agree with you. It would be very nice to drop that Friday evening hearing, but the way the



numbers are now, it is not going to work. I was trying to avoid this, but there is a possibility that if the committee wanted to--you will recall we decided yesterday not to do the Workers' Compensation Board hearings, but to have hearings the one week and clause-by-clause the last week before the Legislature comes back. If the committee so wishes, we can scrap the clause-by-clause that last week and make that hearings as well, but that would mean four weeks of hearings in Toronto. That is an incredible length of time for hearings in one community, although I know it is an important community.

I was trying to resist that, so that we get into clause-by-clause before the House comes back and then finish it when we come back. We would then still have time to schedule the WCB hearings, to which some of us attach a lot of importance as well. I was trying to avoid that in the scheduling.

Ms. E. J. Smith: Yes. I just wondered with all the new times whether the Friday could not be looked at freshly. That is all.

Mr. Chairman: No. If we had not doubled the length of time of each presentation, it would be true.

Ms. E. J. Smith: Yes.

Mr. Chairman: Why do we not try to get rid of the Friday evening and sit during the afternoon?

Ms. E. J. Smith: That is what I am saying.

Mr. Chairman: Let us try to do that. I would like that very much too.

10:20 a.m.

Mr. Stevenson: I suggest we use part of that last week we had set aside for clause-by-clause anyway. It would be nice if that Tuesday after Labour Day and the Friday could be moved.

Mr. Chairman: In other words, that we not schedule in those two days. The problem is quite clear. The problem is that the requests are still coming in from groups that want to appear before the committee. We had set a deadline of the end of July, but one does not like to be too arbitrary on these things. There are still requests coming in from some significant organizations that want to appear before the committee.

I am not sure what it is you are proposing, Mr. Stevenson, and to what extent the committee wishes to scrap the clause-by-clause that last week to deal with public hearings. That is the decision that has to be made. I am nervous about not getting into the clause-by-clause before we come back.

Ms. E. J. Smith: There seems to be some leeway on Mondays and Fridays during the day that would seem to be a possibility instead of Friday night.

Mr. Chairman: Yes. I think we can dispose of the Friday night.

Ms. E. J. Smith: We can? Okay.

Mr. Chairman: Yes. I am more concerned about Mr. Stevenson's proposal.

Mr. Stevenson: I do not know how many of you would have Friday afternoons. All my constituency offices are set up for Fridays. I do not like Toronto business interfering with those offices.

Ms. E. J. Smith: It was changed to Friday because of the Conservative convention, which is not meaning to throw--but that is why they moved it to a Friday.

Mr. Stevenson: Yes.

Ms. E. J. Smith: Wednesday, Thursday and Friday instead of Tuesday, Wednesday and Thursday.

Mr. Chairman: If one or two members are away during the public hearings, it is not the end of the world because it is not votes and so forth. Why do we not go ahead now and schedule in those two extra days? We will get rid of that Friday evening, because I am worried about a quorum on that Friday evening as well. We will leave the clause-by-clause on the agenda for the last week before we come back. If we can keep it to that, we will. If it becomes out of control, we will use that for public hearings as well. All right? Fine. We will proceed on that basis.

Mr. Pierce: Is there a reason we are not doing it on the morning of Friday, September 5?

Mr. Chairman: No. We have cancelled the evening. The reason there were no morning hearings was very simple. I have been on committees where we have tried holding hearings morning, afternoon and evening, and the evening consists of groups presenting their papers to a dozen zombies. It is not fair to either the groups presenting or to the members of the committee. We are having hearings in the afternoon and the evening, but on September 5, there is no reason we could not schedule them in the morning that day.

Mr. Pierce: Instead of the afternoon.

Mr. Chairman: Instead of the afternoon. That is a good suggestion.

Mr. Pierce: And leave Friday afternoon open for travel and, as Mr. Stevenson says, for constituency business.

Mr. Chairman: Yes. We will see whether we can do that. Okay. Good suggestion.

Let us proceed. When we adjourned yesterday, Mr. Laverty assured us that he was in the last one third of his presentation. I ask him to continue.

Mr. Laverty: Yesterday, there were two requests for information that were to be tabled today for the committee's benefit, one of which is an example of how the phase-ins in section 77 work for the economic loss, and the other one dealing with equalization and how the equalization process works.

I propose that the matter on equalization be taken up somewhat later in my presentation when we get to the topic of equalization itself. The question was asked before we had really come to it, which is always fine, but it is more convenient for us to delay that response until then. However, if the committee would like, we can go through the example on subsection 77(2) now and then proceed on with chronically depressed rents.

We have a handout with regard to the operation of subsection 77(2), which I would ask the clerk to distribute to members. You will recall that this is found on pages 33 and 34 of the bill, dealing with the phasing-in of what is referred to as an economic loss for buildings first occupied January 1, 1976, and onward. For the purposes of phase-in, there are two classes established. The first class is those buildings for which the building permit was issued on or before July 1, 1986. The second is those where the building permit was issued after July 1, 1986.

On the first page of the example we have handed out, we are dealing with the building permit issued on or before July 1, 1986. The building data that one needs to know for the purposes of making the calculation are, first, the amount of equity the landlord has put into the building; in this case, we have taken \$300,000. Second, one needs to know the rent revenue of the building in the year it goes to review, which is taken as \$180,000. Third, one needs to know the amount of the financial loss, which is \$6,000. Fourth, one needs to know the economic loss being experienced on the building; that is the difference between the break-even point and the allowed rate of return, which in this case is \$30,000, being 10 per cent of the equity at \$300,000.

For the purpose of the example, the guideline is taken to be five per cent. The phase-in calculation outlined in the bill is that we take the greatest of (i), (ii) and (iii), (i) being the economic loss phased in over five years, which is \$30,000 divided by five to yield \$6,000; (ii) being five per cent of rental income, five per cent of \$180,000 being \$9,000; and (iii) being the full elimination of financial loss, which is \$6,000. You compare the three of those and you see that the largest is the second, being \$9,000, and the other two are \$6,000. Therefore, the amount of the phase-in is five per cent. That is added to the rent guideline to yield an overall 10 per cent rate of rent increase on the building. That is how the first phase-in operates.

Mr. Ramsay: Could you give me a clarification of the difference between the financial loss and the economic loss?

Mr. Laverty: The financial loss is where the amount of the actual costs is greater than revenue, whereas the economic loss is measured from the break-even point, where costs equal revenue, up to the point where the building is earning the defined rate of return. In this example, it is the difference between break-even and 10 per cent. That is the amount the investor could otherwise expect to get if he were putting his money into an alternative investment. That is the rationale.

Mr. Chairman: Make sure you take this sheet to all tenant meetings in your riding, Mr. Ramsay.

Mr. Ramsay: Absolutely.

10:30 a.m.

Mr. Laverty: On the second page, we deal with a phase-in that applies where the building permit is issued after July 1, 1986. The building data are exactly the same as in the previous example; so we do not really have to go through that again.

The phase-in calculation in the bill is different and is the lesser of (i) or (ii), where (i) is the full amount of the economic loss, which is \$30,000 and (ii) is the highest of, A, the financial loss, which is \$6,000; B, 10 per cent of rents, which is 10 per cent of \$180,000, or \$18,000; and C,



which is three times the guideline. In this case, the guideline is five per cent; so three times the guideline would be 15 per cent. Fifteen per cent of \$180,000 is \$27,000.

In this example the highest of A, B or C will be C, which is \$27,000. That is then compared with (i), which is \$30,000, and because \$27,000 is lower than \$30,000, (ii)C is the method chosen for the rent increase. Therefore, the total phase-in amount would be (ii)C, \$27,000 or 15 per cent of rents. That is the total amount of the phase-in. You do not add the guideline to that. This will be the maximum allowed by rent review, although in the particular market circumstance the landlord may not collect that because of the competition from other new buildings.

Mr. Haggerty: For clarification, clause 77(2)(a) says, "in respect of a residential complex, the permit for the construction...." Are we talking about new construction or renovation?

Mr. Laverty: We are talking about construction.

Mr. Haggerty: A new building?

Mr. Laverty: Yes.

Mr. Haggerty: I am lost at the reasoning. To move forward, you are suggesting a total rent increase and phase-in of 15 per cent, and you say that is over a five-year period. Normally, if you write off a building it is for 20 or 30 years. Are you suggesting another area where we are looking at additional revenue from the first outlay of when a tenant comes in, makes an agreement, signs it and says, "Yes, my rent is \$600," and then all of a sudden we can come back and say we are going to add another 15 per cent to this?

Mr. Laverty: In subsection 77(1), we have decided the rate of return required for new buildings will be the Canada bond rate plus one, which is the rate they need to retain for that to be economically attractive. Subsection 77(2) tells you how fast that particular rate of return can be phased in. Once you are at that rate of return, there will be no further provision for the new building over and above the regular rent review treatment. You are then into full rent review.

New buildings get special treatment only during the phase when they are getting to the point where their return on investment is equivalent to other assets. After that point, there are no special provisions in the legislation to assist them. All of subsection 77(2) tells you how fast you are allowed to reach the point where the investment has a rate of return competitive with other assets.

Mr. Haggerty: I will have to have some research done on this area before you can convince me on this one.

Mr. Chairman: Mr. Church is going to verify it.

Mr. Church: To put it in the context of the choices, there are really two ways you can bring new buildings into rent review. You can give them an exemption for a period of time to find their place in the market and then lock them in, or you can dictate a maximum rent and allow them to move up to and achieve that maximum rent in a relatively rapid fashion.

Mr. Haggerty: That is what this bill does.

Mr. Church: Given the two choices and given the rental situation in Ontario, to allow new buildings to seek any market level would be essentially to leave them uncontrolled in terms of their affordability. The view of the tenants on the Rent Review Advisory Committee was that this was really kind of a dangerous situation to enter into at this point.

In other words, for example, in British Columbia, I believe it was, they had five years in which a building could seek its market level before it would be controlled. There was no way to predict in advance what the maximum rents in those units would be, so tenants who moved in in year 1, when the building was obviously losing money, really did not know how high the rent was going to be before they got locked in. This way, basically, there is a method of saying, "If you are coming in paying \$300, the maximum legal unit rent will be calculated according to this formula and will be available in the registry as the maximum legal rent," so they will know what their maximum exposure is. If we are going to have new private sector building, we have to have some way to get to an economic return, and there are really only the two choices: a period of exemption or a formula by which you get to an economic return.

Mr. Haggerty: Of course, this leaves out government subsidies given to the developers in this particular area. In the past, we have seen where government has stepped in with subsidies of \$7,000 or something per unit.

Mr. Church: That would go into the calculation of costs and equity.

Mr. Haggerty: It does not say that here, though.

Mr. Church: The financial loss would obviously be mitigated by whatever revenues they had received from whatever sources. If you have invested \$300,000 of government money, you do not get a rate of return on that. The only thing you would get a rate of return on is the actual investment by the investor. If you look at the building data, the owner of the building is essentially losing \$36,000 comparable to another investment. Obviously, if we are going to induce people to invest in buildings, we have to have a system that allows them to--if the market permits--earn a rate of return. We are not guaranteeing a rate of return here. We are saying: "If you can get these rents on the market, you can move your rent up to this level and only to this level. You cannot move your rents to any level the market will tolerate."

Mr. Haggerty: We will have to see what happens when the bill is finalized, I guess, and find out what effect it will have on rental units.

Mr. Callahan: I have two things. First, during the discussions, was there ever any suggestion that perhaps there should be a hotline for landlords to call to find out how to calculate this? It seems to me that would be a very difficult task, particularly for the small landlord. Unless he hires Clarkson, Gordon, he may have a problem. Was there any discussion about a hotline?

Mr. Ramsay: Do you think you can explain this over the phone.

Mr. Jackson: All he would have to do is read Hansard.

Mr. Callahan: I think if the figures were plugged in, the person on the other end would tell him what he could anticipate.

Mr. Chairman: Does every landlord not have his doctorate in economics?

Mr. Jackson: In fairness, all we would have to do is send copies of Hansard from question period. I thought the minister had been handling those questions very well.

Mr. Callahan: It is terrible how political you can get. It is really terrible.

Mr. Jackson: I am still learning.

Mr. Callahan: That was the first question.

Mr. Church: In response to that question, we have two different methods of assisting the landlord. The first and the most important is predetermination. We have a provision by which anybody proposing to build a building can bring in his figures, can bring in his statistics, and as long as they are properly supported, can achieve a fairly clear understanding of what his legal maximum rent will be. That is obviously essential if we are going to get new buildings.

Mr. Callahan: That is what I was going to say, because that is going to be the selling feature.

The second thing is--I do not quite understand it and I do not know whether the rest of the committee does--why do you differentiate between permits issued before July 1 and after? Is it because in the one case you have the guy already committed and in the second case you do not?

10:40 a.m.

Mr. Laverty: There is greater encouragement and flexibility given to the new building, simply given the need to get people building again. For the people who have committed funds, the phase-in listed in part A is probably adequate from a strict financial point of view, to get to a level where the building will be viable in a reasonable time. However, there is a great deal of uneasiness among those contemplating new investment. We are talking about getting people into the game, not only those who have participated but also those who have not participated, simply because of their concerns about what may happen. Therefore, given the importance of new buildings, we have decided that it should provide a great deal of flexibility in approaching the rate of return that is deemed competitive with other investments.

Mr. Callahan: Is it an effort to influence them to invest in this as opposed to investing in some other investment?

Mr. Laverty: Yes. We must attract investment money to this use, and we wish to be as flexible as possible to ensure that as many people as possible will do that building, which is quite obviously necessary.

Mr. Callahan: That is certainly a significant move forward in terms of the previous rent control. It is certainly a move in the right direction.

Mr. Chairman: Quite a number of members want to get in. I am encouraged. I hope members will pursue the questions because this legislation is not designed for the people who drafted it. We are the ones who will have to live with it, and I hope you will not rest until you understand what these clauses mean. It is not appropriate that those of us who are going to have to answer queries for the next number of years do not get answers that we can comprehend. It is very important for us as members; so I encourage you to do as you are doing.



Mr. Ramsay: Mr. Lavery, do the regulations actually spell out that the landlord's equity does not include any type of government assistance that the landlord may receive?

Mr. Lavery: The legislation itself refers to what is allowed as a landlord investment in subsection 77(1). It indicates that it is the landlord's initial invested equity, which is what he puts in; the principal portion of any debt not otherwise allowed, which refers to the amount of debt above the 85 per cent rule, and which we are not allowing as debt and therefore allowing as equity; and capitalized financial losses. An amendment will be put in to clarify that they are the financial losses we are talking about here. There is no mention there that the money contributed in any other way could be used as an allowance in capital.

Mr. Ramsay: Do you not see this as maybe some sort of loophole, or do you feel that any other source of income would have to be listed?

Mr. Lavery: It is our policy intent that a rate of return will not be earned on the moneys put in by governments. If there is any doubt on whether the bill says it, I do not think we would have any objection to such clarification because that is certainly the policy intent.

Mr. Ramsay: That is something we will keep an eye on then.

Mr. Pierce: Mr. Lavery, maybe I am missing something here, but if I were to go out tomorrow and request a building permit to build an apartment building, would I no longer have the right to establish my rents based on what I see as being an even return on my investment, or would I have to submit to the ministry all the figures of the cost of construction before I could establish new rents in a new building?

Mr. Lavery: We will be getting into it somewhat later on, but the first rent that you charge is left open to market conditions. We will be discussing that under the new units, which is the second-last item on the list. However, from that point onward, the total return that you can achieve and the rate at which you can phase it in will be governed by section 77.

Mr. Pierce: Is the fact that you can establish your own first rent covered in the bill?

Mr. Lavery: Yes. That is section 96.

Mr. Pierce: How you come into the marketplace is at your discretion as a builder?

Mr. Lavery: Yes. We do not want to straitjacket the landlord in terms of his strategy of getting the units on the market and rented.

Mr. Church: To expand on the issue, the factor which became most compelling during the meetings of the committee on this subject was a recognition that, except in extraordinary circumstances, no investor was going to be able to establish a rent level for a brand new building at an economic level right away. The average time before the market, let alone rent control, will permit his rents to move to an economic level tends to be anywhere from three to five years and, in some cases, seven years. Although the landlord is permitted under this legislation, except in very unusual circumstances, to set his initial rent, the initial rent is going to be below the economic rent

level. This is the reason for the provision, which Mr. Haggerty was questioning, limiting the speed with which the landlord can move from the initial rent to the economic rent level.

Mr. Pierce: Given the low vacancy rate throughout the metropolitan area, that argument does not hold up, as I understand it. Certainly, the lack of rental accommodation will allow a landlord to come in at very high rates and at the same time fill his building.

Mr. Church: The research we have done--and we would be happy to table it with the members--does not support what appears to be a fairly obvious contention to that effect. In fact, even as recently as the buildings we have looked at--very recently--it does take time in terms of filling the building, finishing the work and renting out. There is still a resistance in the market to moving into brand new buildings until they are completed. That means there is a period of years before the rents move to economic levels.

If this were not the case, it would be far simpler to attract investors into this area, but given the dearth of private sector building in this area in the past and the continued hesitance of the industry, it seems that there will continue to be this period in which the rents are substantially below economic levels. If they are not, if they move to market levels right away, then these sections will not constrain them; but we recognize that they will continue to be constrained in a significant proportion of situations, particularly if the bill works and there is a lot of building.

Mr. Pierce: If it is the case that, because of the vacancy rate, new landlords coming on stream can start off automatically with high rent levels, then we have not done anything to alleviate the situation of the people who cannot afford to move into the major apartment buildings.

Mr. Church: There is no question that this provision of the bill will not in itself provide low-cost rental housing. If we put it in the context of the assured housing policy, this provision is aimed at ensuring that the new building market remains vital.

I do not know how far you want us to go in this discussion, Mr. Chairman. To put it in an overall context, the issue of how we revitalize new building is intricately tied to how we create vacancy rates in the low end as well. No new building, whether government-subsidized or privately built, is going to be affordable to people earning \$15,000 or \$20,000 a year. The only way that is going to be made available is through full, deep subsidies.

In the assured housing policy, we have set out three strategies for dealing with the three market areas--the high end, the middle and the low end--all three of which have low vacancy rates and all three of which need solutions. It is our view that allowing new buildings to be constructed again under these proposals will solve to a very large degree the high-end availability problems. People who are looking simply for rental accommodation and who are perfectly prepared to pay \$700 or \$800, but cannot find accommodation, will then be able to move in.

Similarly, people now occupying units at \$400 or \$500 and who are prepared to move up, if they can find accommodation, will be able to trickle out of the packed middle and move into the upper end. With the strategy that we have in terms of convert-to-rent and other middle-area supplies, we are hoping that the vacancy rate there will be relieved. There is no question that

we are looking at a very substantial time before we can see a vacancy rate of any substance.

10:50 a.m.

Mr. Haggerty: Will you ever see that with this bill?

Mr. Church: No question. Rent review in itself will not have a major impact on continuing vacancy, notwithstanding the contention of some of the landlord groups to the contrary. It is clear that it has had some impact because of lack of confidence in what governments might do. But in terms of cost, the simple fact of the matter is that is we have an affordability problem, regardless of availability. We could go out and build thousands of apartments tomorrow; if we rented them at the cost of building them, we would still have a very significant number of people who could not afford to live in them.

We are trying to do two things at once: (a) create an incentive to build buildings, because that is the first requirement; and (b) develop through the other parts of the assured housing policy an ongoing, continuous plan to provide supply that the lower end can afford. There is no question that this is not a short-term package. We need the stability of the market first. This is what this bill is, I hope, going to create. Once we have that stability in the market, the challenge that faces Mr. Curling and the government to continue to increase and accelerate the provision of social housing will be clear and they will have to continue. This is not aimed to solve the problem of affordability. It is aimed to remove the institutional blockages to the market's working.

Mr. Haggerty: Provided that you are going to have development in this area. Although the bill provides a good, fair return on investment, this does not say that the investor or the builder is going to get out and build more units. The practice usually is--and I think you will find it in other countries--that they want to keep a certain level in this market. They are going to hold back so many apartment buildings or units to keep this market where it is as a secured source of income.

Mr. Church: There is certainly room for scepticism that the bill will not work.

Mr. Davis: It is interesting to see that the government has the scepticism.

Mr. Church: It is not an easy question. It would be naïve of us to duck your point. It is conceivable that the landlords have been conning us and are not prepared to build if they are assured of a reasonable rate of return. Obviously, I personally do not believe that. I think the entrepreneurial spirit is alive and strong. I do not think we have a cabal or a monopoly. I think we have a highly competitive and healthy investment environment in Toronto and Ottawa, where the major problem is. Some communities are going to have this problem.

If we have struck the right level--and there is room to believe we do not have a high enough rate of return--there will be investment where land ownership is in many hands and where there is this kind of competition. If there is investment, then there will be supply. If there is supply, there will be competition.



This is not a prescription for the low end. This is not a prescription for people--single mothers and others--with affordability problems. This is a prescription for removing one of the major institutional blockages to the market and, I hope, getting it working again.

If anybody wants me to lay my life savings on whether it will work or not, I will not do it. I have been saying to anybody who will listen that we think it is the best--

Mr. Haggerty: I did not ask for that question.

Mr. Church: --chance we have, but it is no guarantee. There is an element of risk here.

Mr. Chairman: A speech on supply-side economics is always in order in this committee.

Mr. Pierce: I will pass to a supplementary from Mr. Jackson.

Mr. Jackson: I think it was covered. I want to raise one quick point, and that is the contention that you have a body of data supporting a forecast conclusion and an outcome which will have a ripple effect from the low end through the medium to the upper. I think it is highly suspect, given that in your upper end the mobility of tenants is primarily from ownership of homes into the upper end. That is generally the trend.

The other point I want to raise is the fact that in the past 10 years we have never seen the interest rate as low as it is today. Therefore, any data that talk about investor capacity are skewed because we have unprecedented low borrowing rates at this time and those data were put in the context, whether in this province or another, with a very different set of circumstances and investor timidity that occurs with the kinds of legislation they were dealing with. I would be anxious to look at the data, partly because I would like to see the conclusions, but also because I believe they would be highly suspect, given those two points.

Mr. Church: Again, we have no qualms about agreeing wholeheartedly with your views that both the trickle-up theory and the propensity to build are being affected by the changing economics right now. Obviously, the bullish housing market is also a major factor in creating vacancy in an upper end, and as long as that continues, the deep severity of the problem we might have will not hit as hard.

All that notwithstanding, theoretically there are only two ways to restore the market. One is to decontrol it and the other is to control it on a level that will create investor confidence. The government has chosen the route of controlling it in a way that will create investor confidence, and that produces a debate on whether this does the trick and whether it will effectively create the vacancy levels we are hoping for in the upper end. I think you have a great deal of room for scepticism. It is a matter of, "It cannot do any harm, and it might do a lot of good."

Mr. Jackson: It is interesting, given the two options and the two courses you have chosen. You mentioned earlier there is a possibility the formula, as just explained to us, may not be sufficient to stimulate, whether it is the upper, middle or lower end. Should that evidence become apparent in the short term, and given that those are the two options for consideration, it would be interesting to hear from the minister whether he would consider

upping the formula to the benefit--obviously, to compound even higher rents--or pursuing deregulation.

Mr. Chairman: By the two options, you mean the option of either deregulating--

Mr. Jackson: Or developing a formula whereby investors have confidence. However, Mr. Church made reference earlier to the fact they are not 100 per cent sure that the formula, as just explained to us, will achieve that end. Therefore, it means to me that if this is the course of action for this government, the formula would then be immediately reviewed, and if it is not stimulating, it will have to be raised and the 15 per cent example in front of us may jump to 20 per cent. That is what I am hearing the deputy minister suggest might possibly happen.

Mr. Church: I can make it stronger and clearer than that, in that in the Rent Review Advisory Committee's report to the minister, it strongly recommended that within a year a major review be undertaken of several of the factors and within three years a further review be done of several of the other factors. Clearly, in each case, if the effect that we are anticipating in this bill and that our research leads us to believe will occur does not occur, we are going to have to reconsider.

Again, I want to make it clear the government is not suggesting this bill in itself will produce large quantities of affordable rental housing. What it is saying is that all the evidence suggests it will produce a rational market, which is a necessary prerequisite of a number of follow-up policies that it plans to introduce and announced in the assured housing policy.

Mr. Chairman: Will you allow the chair a question? If you are a builder and the government has just signalled--which it seems to me it has just done--that if the return is not high enough now and you do not build enough this coming year, not to worry, that can be changed. All you have to do is show us that, as builders, you are not prepared to co-operate at this rate of return and we will give you a higher one. What would you do as a builder?

Mr. Jackson: That is unfair, Mr. Chairman. I could have worded the question that way, but in the absence of the minister, that is an unfair question.

Mr. Church: With respect, sir, I am not afraid to answer the question. It is the question the development industry has been throwing at us, "Why should we build when we know we can turn the screws tighter?" That is basically the question.

Mr. Chairman: Especially if the signals are given to them that--

Mr. Church: The other signal is, the alternative is that the government is going to have to get into the housing business in a big way and there will be no role for the private sector. This is not an alarmist statement. There are several jurisdictions in the world in which that has been done. If the development industry is stupid enough to think it can blackmail the people of Ontario, it will have a serious problem.

I do not believe it is, and this was an essential part of the negotiations in the Rent Review Advisory Committee when a number of tenants became convinced it was not. However, I am not considering guaranteeing that, either. You will hear often from the civil service that there is an element of

risk in many components of the bill, but the risk is not that the situation will get worse; the risk is that this is not a sufficient cure and we will need more dramatic action.

11 a.m.

It is obviously a question of trying to take an incremental step to restore a situation that has got a little out of hand. We hope, believe and have some evidence to suggest that it will work. However, when you raise those kinds of sceptical questions--which, believe me, we all share--yes, it is possible that more dramatic, more drastic action will be required. A very substantial drain on the taxpayers will occur to provide adequate housing.

Two years down the pipe, I hope we will say we were right. We cannot say that now.

Mr. Reville: I promised I would be subdued today, but I am afraid I am going to break my promise.

It seems to me that the risk in the bill depends on what your ideology is. The risk looks more alarming to me, perhaps for different reasons, than it does to other members of the committee.

Given that the committee is being asked to adopt a particular approach based on some assumptions about what this approach will produce, can the ministry provide some research demonstrating a specific kind of outcome from the mechanism just described by Mr. Laverty--particularly the (B) kind of mechanism?

It strikes me as unlikely that we would see an application for relief of economic loss before July 1988 if a permit has not been issued before July 1, 1986. I would like to see the assumptions behind that kind of crystal ball situation. I do not know who would like to respond to that.

Mr. Church: We would have no difficulty providing the background work that the committee went through. There are several minutes of meetings, as well as some research on building cost history in a Price Waterhouse study that we would be delighted to bring to the members.

Mr. Reville: It seems to me that useful information would include what kinds of units you expect to be produced by the approach and the rent levels of such units. We could then make an assessment of what the likely impact of a 15 per cent increase would be on tenants, given whatever the projected rent level is in your assumptions.

Mr. Church: We can provide that. I can tell you now that without the additional government programs, new, unsubsidized buildings cannot conceivably come on anywhere in Ontario much below \$550. In the major urban areas, that figure would be not much below \$650. Clearly, then, we are not talking about low-end assistance here, but about the open market. We would happy to pull together what we have and to supply it.

Mr. Reville: I have a technical question for Mr. Laverty. In your second example, where it turns out that the "highest of" happens to be three times the residential complex cost index, can you show me where, in the legislation, it indicates that the RCCI is already included in the 15 per cent?

Mr. Laverty: Yes. That is in subclause 77(2)(b)(ii), about the



middle of page 34, where it refers to "the portion of that amount"--meaning "the amount required to eliminate the economic loss"--"that will result in a maximum rent increase that does not exceed the highest of." It is, then, the maximum rent increase, which would include whatever is the highest of (A), (B) or (C), and nothing else. That is the key wording in that provision.

Mr. Reville: If the numbers happen to work out differently in the facts you have provided for us, I assume it is possible that there could be an increase of higher than three times the RCCI.

Mr. Laverty: It would if RCCI were below three and one third. Then (B) would kick in, and 10 per cent would be the largest. In some circumstances, the financial loss being experienced might wind up being larger than three times the guideline. Under those conditions, it would be higher than that amount.

Mr. Reville: One suggestion that was made was that in the case of a building such as this, for which a permit was issued after July 1, 1986, the rents actually being charged could well be less than the market rent that would be expected. Is this the only protection for the tenant from going in at a deflated rent and then finding the rent increases dramatically once the building is rented? This is designed to provide a rate of return that will encourage building and to protect the tenant from a dramatic increase.

Mr. Laverty: What the tenant is protected against is, first, the imposition of a rent greater than the economic rent on that building. The economic rent allows the landlord to earn the rate of return necessary in order to induce building.

Second, under subsection 19(2), the tenant will be fully informed when he comes into the unit concerning that maximum, so he can make his own decision on the probability of the landlord increasing the rent that quickly, given market conditions. He may make his choice accordingly.

Mr. Reville: The situation gets dramatically worse, I suppose, if there is a terrific heating up in the value of the Canada bond rate.

Mr. Laverty: The award of the return under subsection 77(1) is given to each building for all time. A building that is started this year gets 10 per cent, and that is the rate of return that is allowable over the entire life of the building. If interest rates and rates of return in the economy generally move up substantially, then in order to attract investment, the rate of return you will have to be willing to allow a landlord in order to get investment will be higher. Conversely, if the interest rates should trend downward, the rate that will be allowed to the landlord will also go downward.

It is a matter of awarding to each building at the time the investment decision is made a rate of return that is attractive in a competitive investment sense.

Mr. Reville: What will happen over time is that we will have universal rent control with the myriad-level tier system. You are at the mercy of the marketplace as a tenant. Whenever you move in, your future rent increases depend on when the building was constructed and what was happening in the marketplace, because they are based on the ability of a landlord to claim an economic loss based on the market conditions at the time the permit was issued.

Mr. Laverty: In circumstances where there is a range of buildings with different allowable rates of return, one would expect that the rents on those units will be related to one another in the sense that people can choose to rent in one new building rather than in another new building. Even though the maximum allowable for a building might be higher in terms of the actual rents the landlord would be able to charge in the market, those rents should really be more or less in line with one another.

Mr. Reville: That depends on the vacancy rate.

Mr. Laverty: That would depend on vacancy rates, but you must remember there is still a vacancy question in units which are coming on to the market. We are not at the point where instantaneous rental of new buildings is possible.

11:10 a.m.

Mr. Reville: Is there any information on the difference in the rent experience of buildings since 1976?

Mr. Laverty: What we have is the information published semi-annually by the Canada Mortgage and Housing Corp., which relates to the rent increases that are experienced currently in the market between buildings which are controlled and buildings which are not controlled.

Mr. Reville: We have that data. Obviously, it is of interest to a landlord to rent out as quickly as possible so the investment starts returning. There used to be a day in the province when you got a trip to Miami, three years' free rent and a freezer with three chickens in it or something. Now you give the landlord a trip to Miami in order to move in. That is a situation we all want to see changed.

Mr. Callahan: Or three chickens, whichever is the lesser.

Mr. Reville: Whichever is the greater or the lesser of the evils, depending on the Canada bond rate that morning. You have to check on that first. I have forgotten the question.

Mr. Callahan: I did not know I could throw you off so easily.

Mr. Reville: Are there any data on how fast you can rent out a high-end-of-market rental building today? For instance, the Tridel building on Bay Street seemed to rent out pretty fast. I do not know what rents they had to charge to get people in there.

Mr. Laverty: As part of its semi-annual surveys, CMHC includes vacancy rates on both old and new buildings and also on buildings that have been constructed in a very recent period. All that information is related and pulled together in the market report that CMHC prepares semi-annually.

Mr. Reville: Do you--this is a political question; I will save it.

Mr. Ramsay: I would like to refer to Mr. Church's comments, because they really alter my perception of this piece of legislation. Maybe he can clarify this for me.

You have shaken my confidence in what this legislation is supposed to do. Whether you agree with it or not, the minister said has said this

legislation was based upon his bringing together for the first time the two groups of people who are the major players in rental housing in Ontario and they came up with this report. I presume this legislation is fairly well based on the agreement between the two groups. Now you are saying you are not sure it will work, especially when we are talking about the category of loss and rate of return, and we may have to re-examine it.

Obviously, this report was not brought in by tenants only; it was the combination of the two, tenants and landlords. Presumably, landlords are the people who will continue to develop projects. What is their commitment to the report and, therefore, to the legislation to say, "These formulas that have been developed would satisfy us and would give us the climate in which we would want to invest"?

Mr. Church: That is the assurance we have received from a number of members of the development industry. However, the perspective Mr. Laughren brought to it is something that cannot be easily discounted by the government. It is conceivable that the industry will lie in the weeds and that this will fail.

Keep in mind that this is strictly one component of the bill. There is no question that the rent review reforms inherent in this legislation do not all revolve around whether there will be new building in the upper end. Building in a rate of return for new buildings is one of the factors.

The committee laboured long and hard to assure itself that it was coming up with realistic formulas and talked to a great many people, economists and developers. Many tenants felt strongly that they wanted to have this provision so that the government was not wasting its subsidies on high-end buildings, where presumably people can afford to carry the costs themselves, and would use the subsidy on the low end. There was a great complexity of concerns going into it.

We ended up convinced that this will work. People such as Mr. Grenier, Mr. Bassel and Mr. Goring, who were on the committee, analysed the figures. You will be hearing from some of them in the public presentations. Basically, their message to us was: "If we can trust the government, this will work. The real issue is whether we can trust the government. Will the government decide two weeks before the next election that this is too rich and that it is going to squeeze this down for political purposes?" I am being very blunt because this is basically the message out of the industry.

11:20 a.m.

That view is the main reason the minister emphasized strongly that the industry and the tenants had to see this thing and decide whether it would work. We want to create some sense of permanence. It is our view that this is sufficient--it is not generous, but it is sufficient--and it will work.

It is the view of many people in the development industry that it is not enough, partially because they cannot trust the government and partially because they believe high inflation is around the corner. It is the view of most tenants to whom we have spoken that it is generous. There is no definitive answer.

I am trying to be as blunt and frank in these briefings as I can in saying, "We are confident," but I cannot produce a study that embosses it in gold and says it will work. We think it will work. We have consulted with



thousands of people who think it will work, and we have consulted with hundreds who do not.

We think that during these hearings we should be able to produce confidence that, looking at it at the most crass level, it cannot do any harm. There may be a better idea that we have not found, but it might be able to do some good.

I am talking here about the specific section for new buildings. The other provisions relating to the streamlining of the rent review system stand on their own. You could essentially come up with something totally new for new buildings, and it would not affect the rest of the bill.

I think the committee is standing pretty solidly behind it. There is no question, and the various committee members who are going to be testifying before you will tell you, that they have grave reservations that they have made too many compromises on both sides. None of the 17 signatories is enthusiastic that he got what he wanted, but all are still standing behind it under some fairly strong pressures not to.

Mr. Ramsay: I share the concern of the chairman that whatever evolves out of these hearings, when we get to clause-by-clause--or whatever amendments to this piece of legislation evolve--we must stick with it. That is a signal that we are consistent and that we are not simply coming out saying, "We are going to give this a shot and will enrich it next year," because that would be very destructive.

Mr. Church: If I suggested anything cavalier about our commitment, that is not the case. The minister is absolutely firm that he is presenting the economic package agreed to by the tenants and landlords. He has said quite bluntly that he will not support or countenance anything not agreed to by the tenants and the landlords. He is committed to consultation and consensus.

Mr. Davis: Mr. Laverty, could you explain the mathematics of B? I can follow how you arrive at three times the RCCI. I understand that, but you have 15 per cent of rents. Is that 15 per cent per year for five years, or is it RCCI plus three per cent for five years?

Mr. Laverty: The numbers here apply to a single year. The next year in the phase-in there would have to be a recalculation, which would again generate a new series of numbers in B for the amount of the remaining economic loss; the amount of financial loss, if any; for 10 per cent of rents in that year; and for three times RCCI in that year.

You would have a new set of figures for year two, and then you would go through exactly the same procedure for deciding which of A, B and C was the highest. Then you would compare that with the remaining amount of the economic loss to be eliminated. Once again, you would choose the lesser of those amounts.

This example has been put together to show a single year. It may well be that in the second year you will get a different result and choose a different factor.

Mr. Davis: As I understand your explanation of that section, this is for one year. If I were a tenant in that building, I would have to ask this question as well: Would the overall rent increase in that building be 15 per cent?

Mr. Laverty: Yes, in one year.

Mr. Davis: It does not necessarily mean the individual unit has a 15 per cent increase.

Mr. Laverty: Because of equalization, which we will discuss later, it is conceivable that the differences might be different in the first year. Beyond that year, once equalization has occurred, it would be true that units would receive the same increases. Of course, you have to remember that in future years, certainly at the rate of 15 per cent, you would very soon arrive at the point where the elimination of the remaining economic loss was either very low or zero and the phase-in would be completed and you would be smack into ordinary rent review.

11:20 a.m.

Mr. Davis: Okay. What I hear you say is that in the first year it is 15 per cent.

Mr. Laverty: In this example.

Mr. Davis: In this example. I think it is a fair example. Moving further, into the second year, would it be wrong to suggest that the rent increase would be less or more?

Mr. Laverty: Assuming that the RCCI is still five per cent, it can only be less in terms of a percentage increase.

Mr. Davis: What happens if the bond rate moves?

Mr. Laverty: As I indicated, the rate of return that is allowed on these buildings is fixed for all time on the particular building. An individual building, if built in a given year, has allocated to it a rate of return for which the government is saying, "We promise you, if you will build starting now, the rate of return you will be allowed to earn on that building is 10 per cent," for example. If interest rates were to go up in the next year, somebody coming in during that year would get that new rate, but you have already struck the deal with the first landlord on the rate of return you are allowing under rent review.

Mr. Davis: At what point is that calculation made?

Mr. Laverty: It is tied to the date of the building permit. If the landlord wishes to confirm exactly what he is going to get, he may come in under section 85 and get a conditional determination, which will tell him that the rate of return he is going to get is, say, 10 per cent; so he will have a document from the ministry committing everyone involved to the 10 per cent return.

Mr. Davis: Let me come back to clause (b) and then I will come to that issue. Hypothetically, the first-year rent increase base is 15 per cent. Therefore, if I am a tenant in that building, I pay a 15 per cent increase in my rent.

Mr. Laverty: Potentially; assuming the market would absorb it.

Mr. Reville: Get into the moving business, Bill.

Mr. Davis: I think I might go into the rental business, if I understand this correctly.

Mr. Reville: You do not want to put that to a vote.

Mr. Davis: No, no.

In the second year, let us say the thing works out to nine per cent and in the third year it works out to six per cent. Those are just hypothetical figures. Then, at the end of the third year, that tenant has seen a 30 per cent increase in his rent, or an average of 10 per cent.

Mr. Laverty: That would be correct; once again, assuming it can be collected and it is charged.

Mr. Davis: Whoever did this must assume that it can be, because he came up with--

Mr. Laverty: No. This is the maximum rent that can legally be charged, but the actual rent being charged is going to be limited not only by the market conditions in the rental sector but also by the fact that at the high end of the market people facing those rent increases may decide to become owners, and people who run rental buildings are very aware of that.

Mr. Davis: They make them condominiums, do they not?

Interjection: They cannot do that any more.

Mr. Laverty: Given Bill 11, I think we have dealt with that one. You have two market constraints on the rate at which landlords will recover that maximum rent, one of them being other rental units and the other being the ownership market and the people who will choose to move out into that market, which will also constrain the amount they will increase their rents.

Mr. Davis: On that part of it, the fixed rate, which is fixed on the buildings for ever, as I understand it--

Mr. Laverty: Yes.

Mr. Davis: --do you see that as an incentive for developers when, as you suggested yesterday, the Canada bond rate is 10 per cent today and the next time the developer goes, it may be eight per cent or six per cent, and he is locked in when the interest rate may jump 12 per cent or 15 per cent?

Mr. Laverty: Essentially, he is in the same position as somebody who is facing a bond investment and whether he will invest in a 10 per cent bond this year or whether he will speculate that bonds will go up next year and he will wait until next year.

Mr. Davis: But if I understand bond investment--and I am not an investor--at some point down the road, such as a year or two years, I can pull that out with a loss and reinvest it in a local bank that is now paying 12 per cent in short-term loans. Correct?

Mr. Laverty: Yes. If the interest rates go up, a 10 per cent bond will be worth less and you will absorb a capital loss on it. It may well be that those people who invest in a rental building may also want to make a decision that they wish to sell the asset, and the fact that it bears a 10 per



cent rate of return will influence the price at which somebody is willing to buy it. When interest rates go up, there is an additional attraction to certain types of investors who will be interested in the long-term sale value of the building.

Ms. E. J. Smith: My questions come along with Mr. Davis's about your long-term capital investment, because this has a big bearing on whether people are going to build rental apartments or condominiums. We know we have frozen present apartments, but we cannot tell people building for the future which way to go.

Mr. Laverty has just mentioned that the land value will show when the building sells, and I assume we are going to be looking at that later on, because here in Toronto one of the major problems in the market is this turnover of buildings. When we get to that, we will deal with it.

To deal with it at this level now, in the first place I would think developers or landlords traditionally get into the market and see part of their profit as probably being increased land value over the years, particularly in a big city. You might get in and say, "As long as I break even for the next 10 to 15 years, then the land is going to have doubled in value and I will have an asset."

The permanence of this bill--I am sure it must have been discussed at the meeting, and that is why I am asking you--would seem to indicate that there is nothing in here that allows for increased land value as one of the assets that an investor is making--a capital gain, so to speak--because your interest is set for ever, it would seem.

Mr. Church: The potential capital gain in a building is in fact reflected in the rate. Two things limited us in doing that. One is that we wanted to avoid encouraging flips. There is nothing more destructive to the tenant than flips.

Ms. E. J. Smith: That is right.

Mr. Church: We could not build it in explicitly a capital gain scenario; for example, encouraging the pass-through of new financing costs or something. That was simply not acceptable to the tenants, and it was not consistent with government policy. However, there is a recognition that a 10 per cent rate of return is not competitive with other equally risky investments by itself. But there are two major factors that have to be taken into consideration; one is the tax position of most of the potential investors, the capital cost allowance in particular, and the second is the probability of some form of capital gain over the long term, not the short term, making that investment more attractive.

The third point, and I guess one that can potentially be a bonanza, is the recognition that people who invest in buildings are not always people who use the same level of cold, calculating judgement as those people who invest in stocks or certificates. I term it the edifice complex. I should not be talking to you about this, but there is considerable evidence that there are a large number of investors who want and like real estate investment because of its historical performance and who are willing basically to take on faith that the capital gain will be there.

11:30 a.m.

There is no question that the industry is aware that, with this set of rules, the capital gain on rental apartments is not going to be as great as it was in the past--and that, we think, is to the good--but there will be some. As long as the conversion control legislation is in place, there will be even less, but there will still be some. Basically, you are evaluating the capital value as a rental unit.

All of that went into the landlords' decision on the committee to settle for this rate of return, and they feel that is sufficient to attract them back in. We put a lot of faith in the fact that these investors would not have agreed to this package if they were not prepared to invest in it. They will look foolish if they are wrong.

Mr. Jackson: No; if they are wrong, they will get a higher return.

Ms. E. J. Smith: Of course, some of the big investors you are trying to attract to end this sort of thing are insurance companies, pension plans and that sort of thing. The big money is up in--

Mr. Church: Yes. The capital cost allowance is a very important factor for those people. The other major source we are looking for is the syndicates. The people who made the multiple-unit residential buildings program so successful are the kinds of investors we expect to come in.

Ms. E. J. Smith: The other question is on this same issue of land value and its fluctuation, which would be in clause 77(1)(b), page 33, capitalized losses. A lot of major construction is done after some years of accumulating and holding land.

Mr. Church: That is right.

Ms. E. J. Smith: I look at a large, proposed Cambridge development in London that may or may not go ahead. In the meantime, they sit on a major portion of land and lose money. Will that be considered as part of your original price? What would you allow someone like that to include in their land value?

Mr. Laverty: We will be drafting regulations on that. The regulations will follow the recommendations of the advisory committee. Those recommendations with respect to land value, if you have a copy of the report, are numbers 1 and 2 on page 4. Number 1 states that "an owner be allowed to value land at appraised market value as of the date the building permit is issued." Number 2 states that "land may alternatively be value as at the date the building permit is issued at cost, including up to two years of carrying costs," carrying costs being principally the interest rate and the property taxes on that land.

Mr. Jackson: Can I ask a supplementary? Is that the greater of the two, or one or the other?

Mr. Laverty: It is at the option of the landlord who would presumably want to claim higher if, indeed, he could produce sufficient evidence.

Mr. Chairman: Are there any further questions of Mr. Laverty on this particular problem?

Mr. Laverty: We have completed subsection 77(2). Should we move on to a new topic?

Mr. Chairman: Yes.

Ms. E. J. Smith: I meant to ask a technical question. I notice Mr. Church is using the figure of \$36,000 in this first example on the second page. Your real loss would be your financial loss plus your economic loss in that first year. You used the composite figure of \$36,000 when you were talking to us. I was trying to figure out where it came in, because we are always making choices here between financial loss or economic loss.

Mr. Church: Yes. I was assuming that whatever mechanism you use to attract investment, you have to eliminate both. Here, the way in which it is broken down, it is the lesser of one or two, but ultimately both.

Ms. E. J. Smith: It has to be both.

Mr. Church: Yes.

Mr. Chairman: That is the end of the phase-in discussion?

Mr. Lavery: Our next section deals with the topic of chronically depressed rents. The chronically depressed rent provisions are outlined in section 88 of the act and are being advanced by the government as a matter of fairness.

Rent review for the past decade has operated so as to keep the rents in certain buildings well below those in other controlled units. Landlords in these buildings are caught with low rates of return, which for many translate into low incomes for the landlord or low values on their retirement investment.

Section 88 provides relief to such landlords provided they meet three strict conditions. First, rents in their buildings must be more than 20 per cent below those in other buildings that are deemed comparable in terms of size, quality and location; second, the landlord must be earning a rate of return of less than 10 per cent; and, third, the landlord must have owned the building since November 1, 1982. The landlord must meet all three of these conditions to qualify for relief under section 88.

Mr. Callahan: Where is November 1?

Mr. Lavery: November 1, 1982, is contained in subsection 88(2) in the fifth line.

If a building qualifies on all three conditions and applies within the next two years for an adjustment--and that provision will be an amendment that the government will be introducing to reflect the advisory committee recommendations--then it qualifies for an extra rent increase of two per cent per year until such time as either the rents rise to 80 per cent of that on comparable buildings or the landlord reaches the 10 per cent rate of return. As soon as either of those events occur, the chronically depressed rent relief ceases. It will then be treated under exactly the same rules as any other building under rent review.

In cases where a unit becomes vacant or the tenant consents to such an increase, the full amount of the adjustment may be taken immediately. That is outlined in subsection 88(3). In these cases, the additional approval of the minister must be obtained. That is to ensure that any agreement is voluntary, and it is also to make sure that the calculation of the amount of the relief is correct.



Mr. Chairman: That is for any unit?

Mr. Laverty: That is on a unit-by-unit basis.

Mr. Chairman: The minister is going to be busy.

Mr. Jackson: Is that upon vacancy or just upon agreement?

Mr. Laverty: Either.

Mr. Jackson: It is on all units then, as the chairman asked.

Mr. Laverty: All units that want to take advantage of subsection 88(3) must have the approval of the minister.

Mr. Chairman: Do you think he will be busy?

Mr. Laverty: If building conditions deteriorate significantly during the phase-in period, the chronically depressed rent relief can be removed under subsection 88(4). This is to prevent landlords from forcing vacancies in order to get faster relief. That completes my explanation of section 88.

Mr. Chairman: Are there any questions on section 88?

Mr. Church, you wanted to help out.

Mr. Church: To elaborate a little bit on Mr. Laverty's description, this is the one point in which the government's policy decision reflected in the bill departs from the recommendation of the Rent Review Advisory Committee. This is not accidental; it is deliberate. The government decided to add the 10 per cent filter basically to exclude landlords who had low rents but were not suffering financial hardship. The Rent Review Advisory Committee had recommended the only filter be that the rents be 20 per cent below the average.

The second thing the government added was the provision for an agreement for an immediate move up; so the government's policy here is a departure from the Rent Review Advisory Committee report. This was conveyed to the Rent Review Advisory Committee, which grumbled but recognized the government's right to govern. They are still grumbling. The committee should be aware that this is different from the recommendations.

11:40 a.m.

Mr. Reville: I am very disturbed about subsection 88(3), because that is immediate full relief on vacancy or consent. Even with the requirement that the minister has to approve, can you explain how a landlord would not approach a tenant and say, "How about agreeing to this, or would you rather have your unit become vacant?" What kind of protection will the minister be in this case? Is he going to sit there in a unit?

Mr. Church: More or less. Basically, we are talking here about a very small percentage of the population. We will be conveying the precise figures to the committee when the research is done. We are talking about a very small number of units. Our view is that in order to avoid any coercion or any sense of coercion, we have to be right smack on top of each one individually.

Generally, we are aware of where the units are; individuals in the area who are working on the files are aware of where the units are. We would enter into dialogue with the tenant right at the beginning of the application. We would check in again as often as is necessary, and if there is any hint of coercion, the legislation provides for a full hearing that would allow the minister to eliminate for ever the possibility of relief.

We have an extremely strong lever to discourage coercion. If a landlord wants relief from chronically depressed rents, he is going to have to be scrupulously careful in his dealings with his tenants.

Mr. Reville: How did the buildings get into this condition of being chronically depressed? There is an argument that says rent review caused this to happen, but I do not understand it.

Mr. Church: Whether rent review caused it to happen or the particular form of rent review that has been in place for the last several years prevented it from unhappening is rather an academic issue and I do not know the answer. The fact is that under the present law, if for whatever reason you were not earning an adequate return when you came into rent review in 1976, it has been illegal to raise your rents to enable you to earn an adequate return. Adding somewhat to the strength of the case is that it is the landlords who have scrupulously obeyed the law who find themselves in this situation now, whereas the landlords who have been perhaps less respectful of the law find themselves in a situation where we have to catch them first.

Mr. Reville: Did these landlords go to rent review to get increases above the guidelines during the years of rent control?

Mr. Church: Yes, some did. Basically, the way the present rent review law works, unless they experienced new costs, they could not get rent increases. If the situation was that they were breaking even but earning no return on their investment, the best they could do was to continue to break even and to earn no return on their investment under the old law.

One of the main reasons it is such a small percentage of the population is that, for those who were determined to fiddle the old law, it was quite possible to do so in terms of looking at your operating costs or some other mechanism to get your rents up. We are dealing with the people who did not milk the system but rather dealt with it legitimately.

Mr. Reville: These are the heroes of rent review, you are suggesting.

Mr. Church: I have been known to present it in that light.

Mr. Reville: A study of this problem was done by York University, I understand. Are we going to get the benefit of that study?

Mr. Church: Yes. I gather the study is still being compiled, Dr. Lavery, and should be available shortly.

Mr. Lavery: Yes. There is one additional piece of information that is very important for the interpretation of that study, which is in the process of being finalized. When we receive that supplementary information, the entire package will be provided to members of the committee.

Mr. Reville: Just one last question, Mr. Chairman. If the assumption is correct--and it has been stated many times--that tenants living in

buildings described as those with chronically depressed rents may themselves have chronically depressed incomes, and if this provision provides an automatic phased-in rent increase that would probably be considerably higher than inflation, given the way the residential complex cost index works and given what we hope will happen to inflation--i.e., it will stay low--is there in the bill or in the government's mind any contemplation of relief for tenants who may find themselves in hardship because of this particular provision of the bill?

Mr. Church: There are currently two methods for relief, and I think the committee will want to consider whether these are sufficient. One, of course, is the shelter support system of the Ministry of Community and Social Services, which might very well kick in in many of these instances, and again it would be a case-by-case analysis. The second is the fact that we are talking here about legal maximum rents, and it may indeed be quite possible to get an agreement from a landlord who has no other alternative to maintain the lower actual rents for as long as that tenant is resident in return for the legal maximum rent. However, that introduces problems of future potential coercion, and I think that is an area the minister would be quite willing to explore with the members at whatever time the committee wished.

Mr. Reville: I am just trying to imagine the situation. The minister goes to a landlord and says, "How about charging less rent?"

Mr. Church: No. In all probability it would be the other way around, where the landlord comes, quite possibly recognizing the difficulty the particular senior citizen in the unit has--and I know the spectre of the horrible landlord is a popular image, and they do exist; but there are also a lot of landlords who are very compassionate souls and--

Mr. Reville: These are the ones in the tall white hats.

Mr. Church: Scepticism notwithstanding.

Mr. Reville: I believe in tall white hats; that is why I am here.

Mr. Church: It is quite conceivable that the tall-white-hat system will help a significant number of those people.

Mr. Callahan: Is that defined in the act? Tall white hats?

Mr. Reville: It is a definition that will have to be added, but they have been having trouble drafting it.

Mr. Church: I guess what I am trying to say is that this act is not built on the assumption that all landlords are crooks and that in fact a good number of them can be persuaded to treat people well. It is also drafted on the assumption that some landlords may not be very kind people and that we will need levers to use. This is an area in which it may be questionable whether we have enough levers, and I think the minister would be quite happy to have a discussion with the members on that subject.

Mr. Reville: Thank you.

The Vice-Chairman: Now I realize whose white horse is hitched to the fender of my car outside in the parking lot.

Mr. Callahan: Remember to unhitch it so it does not wind up like Summer Vacation or whatever the devil it was.



Under subsection 88(3), where that takes place, where in the act does that get kicked into the register?

Mr. Laverty: The answer is that the government is preparing an amendment to that effect, and it will go into section 66.

The Vice-Chairman: Any other questions on this section?

Mr. Laverty: The next section deals with the relief-of-hardship provision that is available to all units in the act. It is an older, more limited relief mechanism that is being continued from the Residential Tenancies Act. Relief from hardship will be based on clause 72(j), which relates to findings of the minister concerning matters prescribed, and it is also noted in subsection 76(2), where it is to be calculated at two per cent of rent.

11:50 a.m.

Mr. Callahan: Excuse me. Is that 72(j) or (i)?

Ms. E. J. Smith: It is (i).

Mr. Laverty: I stand corrected. No, it is (j).

As I indicated, it is also noted in subsection 76(2), which specifies that its calculation is to be two per cent of rents. The idea here is that you not only can get to a break-even position but you can also get an extra award equal to two per cent of rents.

One change from the previous legislation relates to the award of hardship following the phase-out of financial loss after purchase. Under existing legislation, the extra two per cent cannot be awarded in the final year of the phase-out of loss. As you recall, the phase-out of loss is limited to five per cent a year.

In the new legislation, under subsection 76(5), the award can be made in the last year of the loss elimination provided the total for financial loss and hardship does not exceed five per cent. If in the last year that you are phasing out the economic loss, you have one per cent of financial loss to still be eliminated, you could get that one per cent plus the two per cent hardship, for a total increase of three per cent, awarded in the last year of the phase-in. That would be added to the guideline rate of increase.

The new legislation will also permit the award of the phase-in without additional application to rent review under section 89. That is similar to the other process we described earlier when we were talking about financial loss.

This completes the comments on hardship.

If there are no questions on that, we can continue.

The Vice-Chairman: No questions? Continue.

Mr. Laverty: We will continue with maintenance and services. There are three significant changes proposed in the new legislation compared to the existing system of rent review.

First, section 131 of the Residential Tenancies Act allowed rent increase awards to be varied according to changes in the standard of

maintenance and repair. Section 72 of the Residential Rent Regulation Act expands the considerations to include not only changes in maintenance and repair, but also changes in the services and facilities provided. Thus, a discontinuation of doorman or the closing of a swimming pool may be considered in making a rent determination under the new system; so can improvements in these items.

Second, as discussed in the presentation by Mr. Peters yesterday, the new legislation calls for the establishment of a Residential Rental Standards Board to create provincial maintenance standards outlined in section 14 of the act. Violations of these standards can lead to three levels of penalties: rent review can refuse to consider applications or appeals when work orders are outstanding; both statutory and rent review increases can be stayed--in other words, temporarily not collectable--and increases can be forfeited where a continuing violation exists, and when they are forfeited they become permanently not collectable.

The first of these three penalties is outlined in section 15 of the act as drafted and the other two will be added by amendment. Together, these provisions will add substantially to the ability of tenants to demand proper maintenance, just as the guideline and operating cost allowances will provide to landlords sufficient funds to supply the desired level of services.

The third provision related to services deals with administrative anomalies that arise under the previous legislation in the case of charges for parking and certain other services. Because the legal definition of rent includes parking fees, a landlord cannot legally charge an additional fee if a tenant wants to change from one to two parking spaces under the current act. Given this, landlords are also reluctant to reduce the amount collectable when a tenant gives up a parking spot. Such problems are compounded when there is a change in the unit's tenant and the new tenant wants a different number of parking spaces.

In addition, with the restoration of equalization, which we will be discussing in a few minutes, if the current definition of rents were continued, rents on units without parking would be equalized to the same total amount as the rent plus parking fee on the units that did have parking.

The proposed legislation in section 94 will do away with such Alice-in-Wonderland provisions. Rent and parking charges will be separately set out in any decision, tenants and landlords will be able to agree to add or reduce the number of spaces with the fees adjusted accordingly and the rents on the units and for the parking spaces will be equalized separately.

This completes our remarks on maintenance and services.

Ms. E. J. Smith: My point may come in later, when I think about it, as increased or decreased services. You have given an example of parking spaces which is fairly easy because one either has a car or has not; but what about a doorman, which is another example you used? What about the fact that the landlord plus some of the tenants might favour a doorman and then it gets equalized over all of the tenants, many of whom may not be able to afford a doorman?

Mr. Laverty: The nature of a doorman's services is such that if you provide it to one tenant, you provide it to all tenants; therefore, it would not be a matter that would be the subject of a separate charge to some tenants.

Mr. Haggerty: Would that apply to cable television too?

Mr. Laverty: No. Cable television is one of the other areas which are considered. Our advisory committee has suggested limiting the areas that are subject to section 94 to parking and cable only. That is our intent at this time. Parking is mentioned explicitly in the legislation. Any other service would have to be prescribed by regulation, and the advice of our advisory committee is that cable should be the only other separate service that would be included in this provision.

Ms. E. J. Smith: In my illustration about a doorman, which could be typical, if one wanted to change the nature of the tenants for one reason or another, one could presumably add all kinds of fancy services which would then take the rent out of the price range of several of the tenants. Is there any protection against that?

Mr. Laverty: The maximum level of services is not controlled in the act; therefore, if one wanted to provide additional services and the tenants were willing to pay for them--

Ms. E. J. Smith: That is what I am asking. What control do the tenants have at that point?

Mr. Laverty: Essentially, the market control as to whether tenants really were willing to pay for the extra service.

Ms. E. J. Smith: Let me be more specific with an example in my own home town of a downtown tower that is renting at a certain amount. There have been objections to making it a condominium, which might disappear if some of the tenants could be got rid of by pricing them out of the market of the apartment building for a given length of time by, say, putting in doormen and fancy services and making it so expensive that the ordinary, average wage-earner tenant would move out. Is there some way that the tenants get input into those increases in service if they do not want them?

Mr. Laverty: They can certainly communicate that to the landlord. However, ultimately the landlord retains the right to manage the building in respect of the services he provides.

12 noon

Mr. Chairman: Is there not a section somewhere about adding frivolous services?

Ms. E. J. Smith: I was thinking there might be something coming later.

Mr. Pierce: Maintenance and services.

Mr. Laverty: No, I do not believe I can recall such a section.

Mr. Callahan: If the application is going to be frivolous, that is the only one that uses the word "frivolous."

Ms. E. J. Smith: I was curious about whether there was. I do not mean to make any point on it now.

Mr. Callahan: They could, however, make it by agreement. The landlord and tenant could agree that, for that apartment building, the



services of a doorman were no longer necessary under subsection 94(4), could they not?

Mr. Laverty: By and large, section 94 deals with services that are provided to units. Parking is an example. An individual unit's tenant can contract for one, or none, or two parking spaces. The nature of a doorman is such that, unless you were to say the doorman will open the door for some tenants but not for others--

Mr. Callahan: I hardly think it will happen, but if it is a question of losing as opposed to keeping the tenant, I think subsection 94(4) is broad enough for them to contract out of that service. It talks about "parking spaces, or any other service, facility, privilege, accommodation or thing as may be prescribed in respect of the tenant's occupancy."

Mr. Laverty: Yes. As I indicated, the only thing we contemplate with regulation, apart from parking spaces that we will deal with in section 94, is the matter of cable services. That has been the advice from our advisory committee. We have accepted that advice and are going to be drafting our regulations on that basis.

Mr. Callahan: Is that section going to be amended to make it less broad than it is?

Mr. Laverty: The advisory committee has left open the possibility that at some future time it may wish to rediscuss that, and therefore it is proposed that the general power be left in that section. We have indicated that as a matter for future discussion.

Mr. Jackson: It strikes me that this is perhaps the first clear case in the ministry presentation of what the minister referred to yesterday as the difference between dialogue and consultation. The ministry certainly had an opinion on which it would be. Without my having checked the appropriate section, can you advise whether it is dialogue or consultation and what the nature of the amendment will be on the area of Ms. Smith's question, the famous doorman clause?

Mr. Haggerty: Doorperson.

Mr. Jackson: Doorperson clause.

Mr. Laverty: The reference yesterday was somewhat different. It was a reference to clause 14(2)(d) on page 10 of your act, and it dealt with the residential rental standards board developing and establishing "methods of providing for adequate communication and consultation between the landlord and the tenant on a timely basis regarding proposed capital expenditures in respect of a residential complex."

It was indicated yesterday that the government has accepted the advice of its advisory committee once again and will be amending that section to delete the words "communication and consultation," substituting the word "dialogue," which is the wording used in the advisory committee report.

Interjection.

Mr. Laverty: The consultation or the dialogue involved relates to capital expenditures in that section.

Mr. Jackson: I would interpret that to mean, legally, a landlord and tenant merely have to be on record as having sat down to discuss it. That is essentially the extent of the requirement under the clause as you would interpret it for the residential rental standards board. That is the way it would be interpreting the intention of that clause.

Mr. Laverty: Yes. Once it is established, then the question is whether or not the dialogue had transpired.

Mr. Chairman: Mr. Callahan, do you have anything else?

Mr. Callahan: No, except that we were talking about a doorman and I do not see how a doorman fits into capital.

Mr. Laverty: You are quite correct. Perhaps I should have been more explicit on that. Section 14 deals with capital expenditures and essentially is different from discussions about the level of other services, which would be a separate matter not covered by section 14.

The next section deals with the cost-no-longer-borne provision. Under the Residential Tenancies Act, when an interest rate paid by the landlord increases from 12 to 15 per cent, the associated cost can be passed through into a rent increase. When rates on the mortgage are reduced to 12 per cent again, there is no provision for tenants to reverse the effects of the initial increase; tenants continue to pay higher rents to cover costs that no longer exist. The new legislation removes this anomaly. From now on, when rents go down to what they were before the initial rent increase, the effect of that increase will be reversed. What rent review originally gave, it can now take away.

There are two mechanisms in the bill for the consideration of costs no longer borne. Under subsection 72(h), whenever a landlord applies to rent review for a rent increase, his current financing will be compared to any increases granted by rent review since August 1, 1985. Section 78 indicates amounts previously awarded by rent review can be taken away if the comparison shows a lower current interest rate.

The other mechanism applies to those landlords who do not return to rent review. Section 90 requires that the ministry initiate a cost-no-longer-borne procedure whenever it judges that the interest rate may have fallen significantly from that previously awarded when the mortgage was renewed and went to rent review. That completes the remarks on that section.

Mr. Callahan: Do I gather from subsection 72(c) that they can go back to pass-throughs that have been allowed under the previous legislation and roll them back?

Mr. Laverty: Subsection 72(c) governs those cases where a past order has been issued and has dealt with a projected expenditure rather than one that has already transpired. If the projected amount does not equate to the actual amount, it allows for an adjustment of that difference.

Mr. Callahan: They are not going back. Subsection 72(h) may be more specific. If the ministry goes back and determines that increases in financing were passed through to the tenants to increase their rents, can they roll those back?

Mr. Laverty: The intent of subsection 72(h) is that if an award reflecting interest rate cost increases had been passed through previously,

the amount could be reversed if the interest rate again had fallen to the levels from which the first increase occurred.

Ms. E. J. Smith: It says August 1985.

Mr. Laverty: Yes, if the increase had occurred from August 1, 1985, forward.

Mr. Callahan: I know I am jumping ahead but is that one of the benefits to a landlord filing with the registry? Is there something about if a landlord files with the registry, these things are eliminated and they do not go back?

Mr. Laverty: No, the registry provisions are quite separate. They relate to the period before August 1, 1985, while these provisions apply from August 1, 1985 onward.

Mr. Haggerty: I raised the matter before. I am a little concerned about the current discussions in relation to the bill.

Suppose I were a developer and I built an apartment building. Looking at this bill, I could say that I would retire the building in 15 years. In other words, I could sock it to the tenants and raise their rents. After 15 years, no interest would have to be paid on the building.

I would have a free ride, because previous tenants would have paid to retire it in 15 years. Nothing in the bill dictates the lifespan of the building--retiring it at age 30, 20 or 15. I can see this opening up. There would be huge rent increases for the first five or 10 years.

I raised the matter earlier of the additional five per cent for five years. A smart developer could move in, say the building would be paid for in 15 years, unload it, and start all over again. I can just see the flipping of property in this area, as we saw with Cadillac Fairview and Greymac Mortgage Corp. This might just open the door.

Mr. Laverty: I will say two things on that matter. First, under our regulations, we will be specifying a minimum period over which the mortgage can be written off. The length of the period is currently being discussed with our advisory committee. In all probability, a 15-year write-off would be excessively fast. Rent review would not allow that, and the regulations under the act would specify that.

Second, if a landlord has a 25-year mortgage and he wants to reduce that to 15 years, the increase in monthly payments associated with that would, once again, not be allowable for rent review. If the landlord wanted to pay off his mortgage faster, he could do so, but the rents would not be increased.

Mr. Haggerty: The safety valve is there.

Mr. Laverty: Yes, and both matters will be set out in regulations.

Mr. Chairman: Would this be a good time to break?

Mr. Laverty: It would be as good a time as any.

The committee recessed at 12:13 p.m.





STANDING COMMITTEE ON RESOURCES DEVELOPMENT  
RESIDENTIAL RENT REGULATION ACT  
WEDNESDAY, AUGUST 20, 1986  
Afternoon Sitting



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From the Ministry of Housing:

Laverty, P., Director, Rent Review Policy Branch, Rent Review Division

Church, G., Assistant Deputy Minister, Corporate Resources and Building  
Industry Development

Peters, F. H., Director, Rent Review Division

Stratford, L. A., Senior Solicitor, Rent Review Division

Braund, D., Rent Registrar



LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, August 20, 1986

The committee resumed at 2:18 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT  
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: When we adjourned before noon, Mr. Laverty had said he was two thirds finished his presentation. If you would continue, we would appreciate it.

Mr. Laverty: We are a little beyond two thirds, but I hesitate to guess how far. The next subject I wish to take up is the question of tenant applications.

There are two forms of tenant applications in part VI of the act. One is an application to dispute a rent increase that does not require a landlord application to rent review; that is, where the landlord has not applied to rent review for an increase but the tenant wishes to challenge the rent increase all the same. The other tenant application that I will discuss in a few moments deals with illegal rents.

The two types of application are dealt with in sections 91 and 92 of the act. The tenant applications to dispute rent increases differ in some regard from the previous legislation. However, in both the Residential Tenancies Act and under the new legislation, tenants may dispute a rent increase when they believe they are paying a higher rent than others in similar units in the building. They may also dispute a rent increase where they believe there has been a change in the level of maintenance and repair of the unit. Both of those provisions are in both the old act and the new act.

The current legislation adds two more grounds for a tenant application. One is that there has been a change in services or facilities. This is quite similar to what I discussed previously. In addition to grounds of maintenance and repair, which we discussed earlier, you can dispute it when there has been a change in services or facilities.

The other new provision deals with where the rental unit does not comply with the maintenance standards established by the Residential Rental Standards Board. If the landlord is not in compliance with those standards, an individual tenant may make an application to dispute the amount of the rent increase.

The legislation deletes one ground for an application that was in the previous act. That related to the comparison of rents for similar units in similar buildings in the same area. This provision has not proved to be of use since it was introduced and for that reason is being deleted.

There is one significant change in the new legislation on one of the points I have mentioned, and that is where the tenant has claimed that he is paying a higher rent than others in the building. The landlord may now apply for equalization of all the units in the building. Previously, the tenant application would go forward on its own, and only the one unit would be considered. That deals with the section 91 applications.

The section 92 applications deal with illegal rents. I might say it is hoped that illegal rents will soon be a thing of the past. The implementation of the rent registry, combined with the expanded offences section of the act and the commitment the government has made to greater enforcement, should virtually eliminate the incidence of illegal rents in the future. This will all be detailed in the presentation that deals with the rent registry, which follows mine.

Section 92 indicates that no tenant is legally required to pay an illegal rent increase. That is true even where the tenant has signed a lease increase for a higher amount. Where the tenant has paid an illegal rent, he can apply to obtain both a rebate of excess rents paid and a reduction in the rent to be paid in the future.

Yesterday I explained the new system of maximum rent, which would allow landlords to increase rents by more than the guideline without a rent review, but only to the extent that previous guideline increases were not taken. This new system applies from August 1, 1985, onward.

In some cases, landlords have obtained such increases before this day. Subsection 92(3) indicates that landlords will not be liable for the payment of rent rebates if they can show that the amounts charged were the same or less than if they had taken the guideline rent increase or increases allowed by rent review order in every year.

That is the discussion on the two types of tenant applications.

Mr. Callahan: Subsection 92(1) says the tenant is not liable to pay any rent increase. Maybe I should wait until we get to the registry, but if there is a landlord who comes within subsection 92(3) and who charges in excess of the guidelines to trigger what to the perception of the tenant would be an excessive rent increase--he takes more than the statutory guidelines--and the tenant stops paying the rent on that basis because subsection 92(1) says he can and is not liable for it; if it turns out under subsection 92(3) that the landlord was permitted to do that, is there anything to protect the tenant's tenancy if he fails to make that payment of the excess amount?

Mr. Lavery: Subsection 92(3) deals with rebate provisions rather than the level of rent that is set, so the tenant can still get the amount of rent set at whatever the legal level is under the strict interpretation of the act. The only amount payable under subsection 92(3) relates to the rebate the landlord would have to pay to the tenant. I do not think the particular circumstance you described would arise.

Mr. Callahan: The register would show the maximum rent. I am thinking of the landlord who, having had relatives in there, did not take the full amount each year. Under subsection 92(3), he delivers a notice to the tenants that the increase will be two points above the statutory guideline. The tenant thinks that rent increase is in excess of the permitted amount and stops paying the rent.

Mr. Laverty: Let me try to sort this one out. When is the rent increase in question occurring in your example?

Mr. Callahan: If a tenant is served with a notice of an increase in excess of the amount he could get under the act, figures the landlord is doing it illegally and considers himself not liable to pay and does not pay; if it turns out the landlord is entitled to that excess because he has had a benevolent tenant and has not been charging the full amount under the act, will the tenant be able to find that somewhere in the registry?

Mr. Laverty: First, he would be able to find it in the registry; second, if he was a new tenant, he would have to be informed under subsection 19(2); and, third, if he was a continuing tenant he would be notified of that under the notice in section 5.

Mr. Callahan: He would have information to that effect?

Mr. Laverty: He would have information provided to him.

I understand we will probably be introducing an amendment to make sure that subsection 68(3), which is the maximum rent concept, will be tied to compliance with subsection 19(2), which is the notice to a new tenant. It would have to be served in order for the landlord to be able to increase his rent beyond the guideline increase.

Mr. Callahan: I just wanted to be sure that the tenant would not get bounced out for looking at subsection 92(1) and saying, "I do not have to pay the excess and I am not paying it," and finding out when the application was heard that the subsection 92(3) provision allowed what was happening to happen. If notice is given, that is fine.

Mr. Reville: With respect to subsection 92(3), can you explain the rationale behind the decision to deem that the landlord had taken the guideline when for whatever reason he did not?

Mr. Laverty: The rationale is very similar to the rationale behind subsection 68(3). As I described yesterday, we know it is not uncommon, especially among small landlords, to go for several years not charging rent increases to tenants and then make an adjustment later on for that, yet staying within the cumulative amount you could have received under the guideline. Not to provide some relief for that might result in significant financial penalty for a large number of small landlords. That kind of consideration led to this particular provision.

2:30 p.m.

Mr. Reville: Do you have any notion of how many units would fall into a category like this?

Mr. Laverty: As I indicated yesterday, the estimates of the percentage of small landlords falling into that category is about 40 per cent of landlords of six or fewer buildings who charge rent increases of 2.5 per cent or less. Those people would presumably fit into that category. Therefore, one can regard that as normal business practice among landlords of buildings of that size.

Mr. Reville: You are talking about 160,000 units.



Mr. Lavery: No. It is 40 per cent of the units of six or fewer. I do not have the number of those units.

Mr. Reville: There are 466,000. I just made that number up to see what you would do.

Mr. Lavery: We would be glad to receive evidence on that.

Mr. Reville: I think your department does have evidence on how many units are in collections of six or fewer because of the interesting issue that is now more or less dealt with. It seems to me it is about that, but it may not be.

Mr. Lavery: It is not a figure I can personally recall.

Mr. Reville: It would be possible for a tenant suddenly to get a huge rent increase if the landlord decided to go to what he could have got.

Mr. Lavery: Sorry. That would not relate to subsection 92(3). That merely relates to the payment of excess rent charged for a period prior to August 1, 1985.

Mr. Reville: Okay. Someone who experienced a huge increase prior to then would not get his money back.

Mr. Lavery: If the pattern of increase the landlord could establish was such that, had he taken the cumulative guideline increase, so that the rent actually charged did not exceed the guideline increase.

Mr. Reville: Thank you.

Mr. Haggerty: I was looking at the comments in the sections on the application by landlord and equalization of rents. As I mentioned yesterday, I am well aware of one apartment building here in Toronto where there is quite a variation in rents from one floor to the 20th or 24th floors. Some tenants have been in there for a number of years, say, 10 or 15. New tenants come in who are paying maybe \$700, while the one who has been in there for quite a while is only paying \$300 now.

As I interpret the application of equalization, you will make one standard rent for the square footage of an apartment. Am I correct in that? How do you go about it? For example, if they applied for that, then you are saying the rent is what, the highest or the average in the building?

Mr. Lavery: No. The process of equalization happens to be the next topic we are going on to--

Mr. Haggerty: I thought you were into that. You opened your comments in that area.

Mr. Lavery: If we could wait a few minutes, the next section I will go through describes equalization, and I will be tabling an example.

Mr. Haggerty: A and B?

Mr. Lavery: Actually, there are three pages to this one.

Mr. Chairman: A, B and C.

Mr. Laverty: As a result of that presentation, I hope your question can be responded to adequately. I would prefer not to answer your question before I have gone through that.

Mr. Haggerty: Okay. I will let you off that now.

Mr. Chairman: Do not go away, Ray.

Mr. Haggerty: No, I will not go away.

Mr. Chairman: Are there any other questions on this?

Mr. Haggerty: We want to welcome back the two members from where?

Interjection: Somewhere else.

Mr. Chairman: Somewhere else will do.

Ms. E. J. Smith: They are still not here.

Mr. Chairman: Are there any other comments before we move to the other all-important issues? Carry on.

Mr. Laverty: Now we come to the question of equalization. One of the difficult things to explain at present is why rents in the same building can differ greatly for similar units. Neighbours may pay rents \$50 or \$100 different from each other with no discernible difference in the units or the services provided. I think that is your question.

Although landlords are often blamed, there is nothing they can do legally under current legislation to set equal rents on such units, unless of course they wish to lower all the rents to the lowest common level with the consequent loss of rental revenue. The new legislation will change the situation. Landlords going to rent review for a higher-than-guideline increase may be ordered to equalize rents under section 79 of the act. Landlords not wanting a higher-than-guideline increase can also equalize their rents under section 81. In making the award, rent review will consider the landlord's request, the differences in rents between the units, the differences in the services and facilities provided and, for any unit, specific capital expenditures that were made in some units and not in others. The end result will reflect the principle of equal rents for units of equal value.

Equalization was tried once before, from the end of 1979 to late 1982. It was abandoned because of the divisiveness caused by cases where high rent increases were required to equalize rents on units when the full adjustment was done immediately. The new system of equalization will avoid these problems by phasing in such increases. The equalization component of any rent increase will never be more than five per cent in any year. In order to avoid an annual rent review in each year of the phase-in, an automatic system is provided in section 89. That will take effect automatically. We have an example which we can provide.

Mr. Chairman: Was that section 89?

Mr. Laverty: Section 89 is the section dealing with the phase-in.

Mr. Chairman: All right.

Mr. Laverty: We can provide an example.

Mr. Ramsay: Do you suppose this is going to be another moon-landing-type formula that has been transposed to housing units?

Mr. Chairman: Mr. Ramsay, you are just going to have to learn to cope with econometrics.

Mr. Callahan: I hope you never win the lottery; you probably will question whether you have won it or not.

Mr. Laverty: The example of equalization that we distributed is based on a number of assumptions. First, to keep it relatively simple, we are dealing with a triplex, so there are three units in the building. Second, all the units are equivalent in size and services. That means they will be equalized to the same rent. Third, all the units have the same anniversary date for rent increases. That is, all the leases are renewed at the same time in the year. The two other assumptions we are making are that the total revenue collected from the building is \$1,565 each month and that the residential complex cost index is five per cent.

On page 2, we have a calculation of what the total rent increase is going to be on the building. Since this application deals only with the operating cost allowance and a change in financing costs, because of section 73, the operating cost allowance will be equal to the residential complex cost index, or RCCI, which is assumed to be at five per cent for purposes of this calculation. We take five per cent of the total base rent revenue of the building at \$1,565, which was in page 1 of our assumptions, and that works out to be \$78 a month for the entire building.

2:40 p.m.

The financing cost increase deals with the interest rate increase on a \$25,000 mortgage that has been renegotiated from 10 to 11 per cent. Working that through gives you an additional \$25 a month on the building, which means that the rents on the building should increase by \$103 a month, that being the sum of \$78 and \$25.

The percentage increase is then computed as the justified rent increase of \$103 divided by the building's rent base of \$1,565, which expressed as a percentage is 6.6 per cent.

The third page deals with the way the equalization is performed. The example starts from rents on the three units, which are \$500, \$520 and \$545 a month, equalling the total of \$1,565 that we have been using throughout the example. The second column shows what the rents would be if they were all increased by 6.6 per cent; that is, a rent increase before applying equalization. Those amounts turn out to be \$533, \$554 and \$581, for a total rent for the new year of \$1,668.

The third column equalizes those amounts. Simply, it takes \$1,668, which is the total rent to be allocated, and divides it by three. We find that \$556 will be the rent after equalization on the three units. That produces a rent increase on the first unit of 11.2 per cent, on the second unit of 6.9 per cent and on the third unit of two per cent. The overall increase is still the 6.6 per cent that was awarded on the full building. That indicates how it is done and it also indicates that the equalization itself does not change the total amount collected on the building.



Mr. Chairman: This would assume, would it not, that each of these apartments is paying a rent not based on any difference in the quality of the rental unit?

Mr. Laverty: That is correct.

Mr. Chairman: What if the unit for which they are paying \$545 has an extra bathroom?

Mr. Laverty: Then a difference could be justified.

Mr. Chairman: Where does that judgement call come in?

Mr. Jackson: When you dealing with a triplex, it is obvious you are going to find dissimilar units. In that context, the example is a bad one if you want to make comparisons. However, if you think of it as a large building, it is obvious they will be similar. That is what I was trying to cope with. How do you prove they are similar in a triplex? I know you had to use the example to explain the formula, and that is appreciated, but trying to find similar units would be very difficult.

Mr. Haggerty: I will go back to my original question. If I interpret correctly the formula you presented, I would say it does not agree with subsection 79(2) of the act, which says it shall not exceed five per cent of the maximum.

This formula opens the door for a landlord, you say, to bring in equalization. You thought when you looked at it that you were going to bring it up to the level of the highest rent in that building for a unit of a similar size. But you open the door here. He is going to get a two per cent increase, plus the 10 or 11 per cent he is going to get generated for his investment, plus the five per cent under RCCI and so on. There is just no end to it. It looks to me as though you are opening the door here to allowing further rent increases instead of controlling them.

I have seen the different range of costs for rental units of a similar size in the building I am in right now. There is quite a spread; it is more than \$45. You are going to run into some buildings out there where there is a spread of \$200 to \$300 between one apartment and another, as I mentioned before, because there has been a tenant in one for a number of years. Of course, any big increase in the turnover of rental units would affect that. In the past, when a new tenant came in, the landlord was able to up the rent on that property considerably. Looking at what I pay, it is out of this world. You are just opening the door here again. I agree with the equalization principle, but this opens it well above the five per cent guidelines established under section 79.

Mr. Laverty: No. The maximum increase that could be charged in a building where the total amount of increase awarded to a landlord was 6.6 per cent would be 11.6 per cent. Had we chosen an example in which there was an even lower rent than \$500, we would have illustrated that the rent increase would have been capped at the 11.6 per cent. The maximum that the rent on any unit could deviate from the average granted to the building would be five per cent in a year.

Mr. Haggerty: By adding two per cent more under this formula, you are penalizing the person in that building who has been paying a higher rent. You open the door again and say, "We are going to nail you for another two per

cent, plus everything else that goes along with this." It is hard to follow your thinking in this area.

Mr. Church: There is a misunderstanding in the application of the formula. The equalization formula takes place after all the other rent increases that the landlord is entitled to. In the example that Dr. Laverty has put together, the landlord is entitled to a 6.6 per cent increase overall, period, with all factors considered. To have equity within the building--because the previous law allowed unfairness in the cost of the units--you can equalize the increase, not the base rent, either at the discretion of the minister or at the application of the tenants. You apply the increase to equalize the total rents being paid.

The resulting income to the landlord is not one cent higher than it would have been without the equalization payment. That is the essential component of the formula. The equalization cannot return a benefit to the landlord. The only benefit he gets is that he is not being bugged by the tenants who are paying twice as much as their neighbours. The landlords may, indeed, be quite happy to have equalization, but there is no economic incentive for them to have equalization.

Mr. Reville: I have a supplementary on that.

Mr. Haggerty: But the next round you come to the next year he applies for a rent increase, that is when he really gets on the bandwagon.

Mr. Church: No, sir.

Mr. Haggerty: Sure he does.

Mr. Church: He uses exactly the same composite figures. The base cost figures remain exactly the same, regardless of how they are allocated within the building.

Mr. Chairman: Mr. Haggerty, use your example of the person who is already paying the most rent paying more. He actually pays less of an increase under this system than he would if the 6.6 per cent were applied individually to each unit in the entire building. The person who is paying the most pays a smaller increase than the person who is paying the least.

Mr. Haggerty: That is not the way that I see it here. When he applies for a rent increase the following year, he has all the apartment buildings equal. If you take the six per cent on the old rate, he is going to have a higher source of income and return on his investment the year following the implementation of this formula,

Mr. Chairman: Column 2 on page 3 says "Equal Percentage." If it is applied unit by unit, the person paying \$545 will pay \$581.

Mr. Haggerty: That is right.

Mr. Chairman: With the equalization factor, that person does not pay \$581. Instead, that person pays \$556. That person has only a two per cent increase, whereas if you had the unit-by-unit formula, that tenant would pay a 6.6 per cent increase.

2:50 p.m.

Mr. Jackson: The point is that the base is constant with whichever formula you use, which is the point you are trying to get at. You are saying the landlord has a better financial position at year-end going with this new equalization. The base figures are identical. It is the formula and which tenant pays more that are being discussed, but the bottom line is the same.

Mr. Haggerty: It will equalize the year after.

Mr. Chairman: Mr. Haggerty, can we go around the Horn and come back to see whether we still need further clarification? Jump in again if necessary.

Mr. Reville: I would like to be directed to the section of the bill that determines how the equalization works that relates to total rents on similar units. Is that specified in a section or is it in the regulations?

Mr. Laverty: The considerations for equalization?

Mr. Reville: Yes.

Mr. Laverty: That would be in subsection 79(1), which describes the basis on which the equalization is made, and subsection 79(2) refers to the five per cent cap.

Mr. Reville: I see the five per cent cap. I do not see any words that say you could not equalize people up.

Mr. Laverty: Subsection 79(1) refers to apportioning the total rent increase. That clearly says we get a rent increase and then section 79 can only go from there in apportioning that between the units. That is the phraseology in the act which says that, as in our table, we compute the rent increase in column--

Mr. Reville: I can see quite clearly what you have done. I just do not see drafted here the words that say this is the method by which it must be done. It strikes me that there could be some fairly complicated situations. First, you would need evidence that the total revenue from a building was correct and then you would need evidence to indicate that the groups of units which you were claiming to be similar were correct. Then you would need evidence to show the rents alleged to be charged that now need to be equalized with the act. I do not see that written down. I do not know whether this is a vague drafting or whether I just cannot see it.

Mr. Laverty: My understanding of the legal drafting is that the phrase, "in apportioning the total rent increase" means the powers under section 79 can be used only to take the total rent increase awarded in consideration of the other aspects of the act and then perform a division of that among units. The end result in terms of the total rent increase remains the same after equalization.

Mr. Reville: Would you put me back on the list? I have a different question after the supplementaries.

Mr. Jackson: I was intrigued by Mr. Church's explanation. I wanted him to continue with his explanation. This example stems from the future bill which, if passed, will result in us as MPPs receiving a phone call from the constituent in unit 1 who has an 11.2 per cent increase. We are not going to get a phone call from the constituent in unit 3. They are going to ask me as their MPP what can they do to fight this because they are going to think it is



not fair. I am going to quote the minister's speech and I am going to say the minister promised us he would stop confrontation between tenant and landlord but he was silent on whether there would be confrontation between tenants. I do not know. What do I tell them? Can they appeal this? Is it a matter of dialogue or of consultation with the landlord? How does that work?

Mr. Church: It is a process in which the minister may take equalization into account. If there is a compelling reason that the constituent who is phoning you should still continue to be bonused relative to the other tenants, then at that administrative review process and on appeal he can make his case. Putting it in a different frame, if your constituent's message to you is, "For the past several years, I have been receiving a bargain and my fellow tenants have not, and I wish to continue my bargain," I suspect he will lose an administrative review, but there is a process. From an MPP's point of view, that is probably most important. There is a process he can go through to make his argument and his case. If fairness and justice suggest equalization is appropriate between the two units, though, he will lose.

Mr. Jackson: If I had just made the phone call to the ministry and said, "Help me out; it has been a year since I worked on this bill," and I got that answer, I would say: "Fine, except that I am going to get a phone call from constituent 3, because he now realizes there may be an appeal and he could be faced with a 6.6 per cent increase or a two per cent increase. Now he is on my tail because he wants the two per cent increase."

Interjection.

Mr. Jackson: Actually, it is perfect for a politician; he is going to get both.

The question remains, how does the minister determine whose ox is going to get gored here? I can see a situation. If it is an appeal and the minister is going to listen, he has to listen to the tenant in unit 3, who is saying, "It has been unfair to me and therefore a burden for years," and he has to listen with equal balance to the tenant in unit 1, who is saying, "This corrective financial surgery is too much of a hardship for me and is unfair."

Who is mediating and who is arbitrating between two similar arguments?

Mr. Chairman: When you answer that question, also answer the question of what happens to equalization if he wins the appeal.

Mr. Church: The answer to all those questions is bound by the dictum of equal rents for equal units, pending a limitation on the speed of phase-in. To put it in a different way, the arbitration that will take place, both in administrative review and on appeal, will be based on equal rents for equal units. There may well be argument on equality and on the actual rent paid, but the arbitration will be based on that, I think, fairly established and fair dictum.

If an appeal is won, it will be on the grounds that the units are not equal or the rate of increase has been greater than the five per cent limitation. In either of those cases, if it is provable, the administrator or the appeal commissioner would judge on that basis. It is an area that is certainly going to create tension within a building.

However, the existing differences also create serious tension within buildings. I am afraid it is a bit like what I talked about earlier; there is not a winning answer on this. When you are in a unit where, as a result of perhaps less than excellent law for the past several years, even greater differences have been institutionalized every year, the move to eliminate those differences will cause tensions within the building. However, because we are working from a principle of fairness to all that is pretty hard to argue--that if you have an equal unit, you should pay an equal rent--your constituent will be reduced to arguing that the units are not equal or that the rent increase is greater than the five per cent limitation.

Mr. Jackson: However, it is safe to say this is the first time since we have had legislation governing rent charges that we have a situation where, on appeal, a tenant would be appealing against another tenant's charges on the basis of a rental rate.

Mr. Church: No. During the 1979-81 period when equalization was in the old act and in relation to any distributional issue, you could end up with tenants within a building or a group of buildings arguing about the distribution of costs. You basically get that now on any application where someone feels he is paying too much.

Mr. Jackson: So there was a form of equalization between 1979 and 1981. Why was that eliminated?

Mr. Church: Mr. Lavery, I think you could go into that.

3 p.m:

Mr. Lavery: As I indicate in my remarks, the form of equalization in place from 1979 until late 1982 was not subject to the five per cent maximum on the rate at which equalization could occur. In some cases, individual tenants would have been faced with very much larger awards on equalization. It was the extent of that which gave rise to various problems. When the tenant groups with whom we had been dealing accepted the principle of equalization, they made it very clear to us they would do it only if it were subject to a limitation on the rate at which that would occur. Therefore, unlike the previous legislation, we are putting in a limitation of an adjustment of five per cent per year.

Mr. Callahan: So that I am sure I understand subsection 79(2), if unit 1 had a rent increase of 11.8 per cent, that would breach the section.

Mr. Lavery: Yes. The absolute maximum it could receive would be 11.6 per cent.

Mr. Callahan: The next question is, if it was 11.8 per cent, would they just not pay it, or would it get shuffled down to units 2 and 3?

Mr. Lavery: The total amount of the rent increase on the building is still allocatable. If there is an extra amount, it would be carried by the other units, and that is the result. The total amount collected by the landlord is not varied by equalization. If you are putting a cap on the amount of equalization on any unit, it means the other units wind up bearing a somewhat higher rent than if the cap was not there.

Mr. Callahan: Therefore, unit 1 does not just lose that single unit or a percentage; it is distributed among the remaining ones.

Mr. Lavery: That is correct.

Mr. Callahan: I gather the landlord has to go through a dry run before he submits this to make certain none is in excess of five per cent, and then he would have to go through a second dry run to work out how to distribute that among the remaining units.

Mr. Lavery: If the landlord were filling out an application and wished an equalization, he would have to consider what the allocation of that equalization would be; that is correct. He would have to know that not so much for rent review itself, but rather for the giving of his notice to make that amount collectable.

Mr. Reville: Is there a provision to give notice to tenants, through the rent registry or other means, that they are living in a building with unequalized unit rents?

Mr. Callahan: If Mr. Reville does not mind, because there is this phasing-in, could they not hold that over? Could the minister not say, "You can do it over two years," and allow that 0.1 per cent above what they are allowed to be carried into the next year?

Mr. Lavery: Yes. Under section 89, there is a phase-in in the future years.

I am not the expert on the rent registry, but I believe it would be carried in the rent registry and the information would be available. Am I correct?

Interjection: Yes.

Mr. Callahan: If it was a 20 per cent increase on unit 1, because it would exceed the amount by a great deal, rather than allocating it to the people in units 2 and 3 in that single year, the minister could say, "You will be allowed to bring in the equalization over two years."

Mr. Lavery: I am not quite sure I followed the proposition.

Mr. Callahan: As I understand it, in this example, if the rent increase for unit 1 were, let us say, 15 per cent, my first question was, what happens to the excess over the five per cent? You said it is allocated to the unit holders.

Mr. Lavery: Yes.

Mr. Callahan: Could it not be phased in over two years, or is that in any one year if it exceeds five per cent?

Mr. Lavery: You must remember that the only power the minister has is to distribute the total amount of the rent increase, so that if he is forbidden by subsection 79(2) to pass additional amounts in unit 1, then mathematically he is constrained to award the amounts on the other units in order to make sure the same total rent increase is collectable on the building.

Mr. Callahan: It says on a 12-month period, anyway, so that is it.

Ms. E. J. Smith: The next year you could equalize again if it were excessive.



Mr. Laverty: It would occur automatically under section 89.

Mr. Callahan: I am sorry, I did not mean to interrupt.

Mr. Reville: That is a good routine, Mr. Callahan. Was the answer to my question that you seem to have given to Mr. Callahan that you can find out somehow that your landlord has applied for an equalization but you can only clearly find that out after he has done it? Shall I save that question for the rent registry expert? Is that you, Fred?

Mr. Chairman: He is looking worried.

Mr. Peters: With all respect, I am not sure I understand the question.

Mr. Reville: Let me give you three examples, A, B and C. I call up the rent registry about unit 101, and they say the rent on that is \$500 a month. Has some exercise been gone through already to determine that all the units like the one I want to rent are equal?

Mr. Peters: No. That information would be available after the landlord begins to register the rents as of July 1, 1985. At this point I am not sure, quite frankly, whether a provision exists to notify the tenants in advance that their building might be liable for an equalization application.

Mr. Reville, there is no automatic provision for notification prior to the publication of the order.

Mr. Reville: But once an application was made and granted, that information would be in the rent registry and you could find out how many years it had to run.

Mr. Peters: Yes.

Mr. Reville: The five per cent cap on equalization increases is in addition to any capped increases that might be allowed through a rent review process? For instance, let us say there was a major economic loss and one of the lesser of or greater than factors kicked in. In a previous example, when it was 15 per cent to work off the economic loss, you could have an additional five per cent on top of that if you happened to be unlucky enough to be living in an unequalized situation.

Mr. Laverty: If you happened to be living in a unit that was being charged less than the average for the same type of accommodation in the building, then your rent increase could be larger than 15 per cent. In no event could it be larger than 20 per cent, and that is what the five per cent cap refers to.

Mr. Reville: That will be an interesting call, Mr. Jackson--the 20 per cent call, I think.

Mr. Ramsay: I hope he gets it, too.

Mr. Reville: Was any thought given to restricting applications for equalization only to years in which only the guideline increases were being asked for, to avoid the double, triple or quadruple whammy effect of these bonuses that have been built in? For instance, if I as landlord want to do

equalization, I can do that only in a period when I am not also crying the blues about economic loss or some other thing such chronic depression or something.

3:10 p.m.

Mr. Lavery: I do not know if I can recall such a discussion. From 1979 to 1982, you could only get an equalization if you asked for more. The innovation in this act has gone one step towards what you have suggested in that a new provision has been opened up in section 81 where you can take the guideline and get an equalization without asking for anything else.

Mr. Reville: In the case of a building that was dramatically unequal, these five per cents could go on for some time.

Mr. Lavery: If the tenants of certain units were paying rents well below those on the other units in the building, they would have a period of years in which they would still be charged the lower rent until the time when they would be paying the same for their unit as all the other similar units in the building.

Mr. Reville: I see a good opposition amendment there probably.

Mr. Davis: What happens in that first unit where the person finds himself facing an increase of 11.2 per cent and, understanding the units are equal, he talks to his local politician and applies because he says it is a financial hardship on him? How is that dealt with?

Mr. Church: If I understand your question, the tenant is applying for some form of assistance from the government on the grounds of financial hardship. Is that it?

Mr. Davis: No. I just did some rough figuring. I am not a very good mathematician and I am probably wrong. If a person is bringing home \$15,000 a year and you played around with all these figures, you took out for rent and about \$100 intended for food, that individual has about \$300 left in his pocket to cover all his other expenses. He has been paying \$500 and now he is going to be asked for an extra \$56, which could make it difficult for him. He phones me and says, "I do not want to pay that amount of money because it is difficult." What do I do? Tell him to go on welfare?

Mr. Church: There are some shelter subsidy programs available within the government, but basically, yes. It is not a rent review problem if he is in a unit that becomes unaffordable within the law. Again, I go back to the point that the lack of supply of low cost units is the problem there.

Mr. Davis: Can I have your phone number?

Mr. Church: It is used extensively.

Mr. Davis: I can assure you it will be.

In the example that was used about the 15 per cent increase, because the person was in an economic depression, that could have been higher than 15 per cent, could it not?

Mr. Laverty: No. I understood the 15 per cent example was a reference back to the example we had earlier today about a unit that was in the period of recovering its economic loss. The landlord was able to charge up to three times the guideline, and the guideline example in that case was five per cent.

Mr. Davis: It could not be any higher than that? If the residential complex cost index was different it could be higher, could it not?

Mr. Laverty: If the RCCI was higher, yes.

Mr. Davis: If the RCCI was six per cent, for example, then that charge could be 18 per cent plus five. It would then be 23 per cent.

Mr. Laverty: On some units, but the other units would be below 18 per cent to balance it out. The maximum the landlord could get in that example would be--

Mr. Davis: I am aware of that. It is not fuzzy to me. I understand that the landlord can get only X per cent. That does not bother me. I can understand that. However, when he gets X per cent, there can be a large discrepancy between what one tenant and another will be paying in a particular year, depending on what other factors go into it, whether or not the landlord is applying for one of the funny formulas.

In that instance, it could be that a tenant in that building you used in the example this morning, and we make RCCI six per cent instead of five per cent, could face a 23 per cent increase in his rent even though other tenants would face less.

Mr. Laverty: In that example the increase would be higher, but the rent he would pay would be the same as that for other units. It is a question of whether it is more important that the percentage increases are the same or whether the rents they pay are the same. This is the important issue in considering equalization.

Mr. Davis: I understand. This is important to you as the official who is trying to tell me it is a good idea. The individual tenant in the apartment is facing a 20 per cent or 16 per cent increase in his rent, even though someone else is facing less. I am talking about the one individual who sees this on his little notification.

Mr. Callahan: He should have been saving the money, I guess.

Mr. Davis: Am I correct?

Mr. Laverty: Without being argumentative, I am sure the tenant would prefer to continue to pay less than the other people in the building pay for that kind of unit.

Mr. Church: It may help somewhat to compare the total rent increase potential under that system with the one that is available now. It may make life a little easier for the MPP faced with that query. Under the present system, it is possible for rent increases to be substantially higher because of the ability to accumulate operating costs and jam them through in one year.

For example, the average rent increase in front of the Residential Tenancy Commission in some years has been 11 per cent or 12 per cent. There



are a lot of applications for six per cent and seven per cent, which means there have been a lot for 30 per cent and 40 per cent. It has been considered by the government that the horror stories of 30 per cent, 40 per cent and 50 per cent increases are to be avoided virtually at all costs.

The way this is structured, you would need a rather extraordinary situation to get to the rent increase you are talking about. If you have had a very low rent in a depressed building where there has been a large increase in expenditures, it is conceivable that a few units will go up in that range. In comparison to the old system, you will have virtually no increases of the greater proportion. It is still not going to help you with the individual, but it may help you feel more holy in total.

Mr. Chairman: It is not unlike moving to market value assessment.

Mr. Ramsay: I thank Mr. Church for his thoughts on that, but we are here to design as close to perfect legislation as we can. I think there is room here for, as my confrère Mr. Reville said, some opposition amendment. I am glad to see Mr. Davis coming a little on side here. There are concerns that there are no caps to total rent increases. We are probably on common ground, because he is working now within a structure that no longer affects total revenues generated by the landlords. I suppose that is why Mr. Davis feels he is on safe ground. We are talking about how the total revenue within the building is divided up. I share that concern with Mr. Davis, and I think we had better be looking at this when it comes time for amendments.

Even though there may only be a few, why should we create a piece of law that could hurt some people? We should be looking at more generous phase-in time or something so that we do not get those. Even one or two problems are going to make the headlines. We want to protect people, and I ask the committee to keep that in mind.

Mr. Jackson: On a point of privilege, Mr. Chairman: Before my colleague starts to interpret or speak the mind of any member of the committee, he should temper what he says. We are able to come to these agreements because at least one political party representative in the room insisted on public hearings in order that these factors become known before we are forced to vote on it in the House.

Mr. Ramsay: On a point of privilege, Mr. Chairman--

Mr. Jackson: If you want to joust, we will joust.

Mr. Chairman: It is not a point of privilege. Unless the other members whose hands are up have a legitimate point of privilege, I ask them to suppress it.

Is there any more on this section, Mr. Laverty?

Mr. Laverty: Not from me.

Mr. Chairman: Having teased the bears.

Ms. E. J. Smith: Not on a point of privilege but on a point of order, Mr. Chairman: I think we all understand this now. Amendments are to be considered later. At that point we can all speak for and against them quite eloquently.

Also, I would be very happy to get the kind of information Mr. Church has just provided for us on rent increases under the old act and so on, if that is possible. From a political point of view, it would be very useful to us to have this kind of information, so that when we are questioned, we can make those kinds of valid comparisons.

3:20 p.m.

Mr. Pierce: I have a supplementary to that. If that information is forthcoming, I suggest that it be conclusive: how many that were over the guidelines have been approved and how many have been rejected by the rent review?

Ms. E. J. Smith: I am talking about approved. I am not trying to get into--I assume they are not going to give us files of those rejected by rent review. We are talking about what has happened, as compared to what is being proposed.

I am not trying to be particularly political, as is Mr. Jackson. I am just trying to be able to answer the questions when the phone calls come in.

Mr. Chairman: Can we move on? Some members of the committee have indicated they would like to adjourn at 4:30 p.m.; so we would like to keep the process moving.

Mr. Lavery, do you still have to go through (b) and (c) on equalization, or is that (a), (b) and (c)?

Mr. Lavery: We presented equalization. I will be pleased to move on to another topic, if that is the committee's will.

Mr. Chairman: Okay. Address us on the matter of vacant units.

Mr. Lavery: All right.

Mr. Pierce: That should not take long.

Mr. Chairman: You would not think so, would you?

Mr. Lavery: Under current legislation, if a unit has been vacant for one year, the rent may then be set at a level comparable to other similar units in the building. If all the units are vacant, rents are set at the level the market will bear.

To compound this interpretation, where units have been substantially renovated, the Residential Tenancy Commission has in some cases deemed them as not having been rented in the past 12 months; the rents on these units have been set at market value. This last interpretation has encouraged some landlords to obtain possession of vacant units in order to perform substantial renovations, with the consequent loss of this stock to luxury use.

As indicated in section 95 of the act, we will now have a new treatment, and the rent on the vacant units will be allowed to increase at the cumulative guideline rate or the amounts awarded on the unit at rent review. Substantially renovated units will be treated as capital expenditures under the regulations to the act.

That is vacant units. Do you wish me to continue?

Mr. Chairman: I want to ask you a brief question. If I am reading section 95 correctly, it does not make a difference whether a rental unit has been vacant for a year; the landlord can apply for an increase as though it had been occupied and apply that increase to a tenant in that unit. Is that correct?

Mr. Laverty: Yes. Under section 95, the rent increase that can be charged by the landlord is no different whether it is vacant or not.

Mr. Chairman: Is that clear?

Mr. Pierce: In other words, the landlord cannot adjust his rates in such a way as to try to recoup the losses he suffered when the place was empty for a year.

Mr. Laverty: Not in the case of a unit that has simply not been rented. There is a more difficult question with regard to ones where there are substantial renovations. The cost of having the unit vacant while the renovations are being done is something we are currently considering in drafting regulations.

Mr. Pierce: What about areas where there are just no tenants for those units, and they could sit vacant for more than a year? I know there are not many of them.

Mr. Laverty: Yes, they could well. All section 95 says is that whenever they get rented again, the increased rents will be higher by the same amount that the rent of any other unit in such a building could have increased.

Mr. Pierce: There is no mechanism by which you can catch up for the lost revenue?

Mr. Laverty: No. The system does not cover the landlord's risk of vacancy. That is still a market risk the entrepreneur must face, and he must judge his investment accordingly.

Mr. Pierce: Does that come out of his 10 per cent of the bond return that he will be guaranteed?

Mr. Laverty: That is why we are allowing the extra one per cent.

Mr. Pierce: I see.

Mr. Reville: Does that mean you are going to create a section to deal with the "new" units that we know are created through demolition and renovation?

Mr. Laverty: We are proposing to change the treatment from that which is currently allowed under section 128 of the act and the interpretation of that which is represented in the current rent review guidelines. If we have decided as a matter of policy that treating these as new units and allowing them to charge in essence what the market can bear is no longer the appropriate way to encourage renovations, we will have to draft in regulations an approach which avoids that result.

Mr. Reville: Will those be regulations to this legislation or to some other?



Mr. Laverty: They will be regulations to this particular legislation. However, renovations would still be subject to any other legislation of either the province or the federal government, as may apply.

Mr. Reville: Mr. Chairman, this may be the time to once again request the ministry to provide any such amendments or regulations that are this substantive before we finish this exercise.

Mr. Chairman: As a matter of fact, I was wondering a couple of things myself. First, roughly how many amendments do you anticipate? Would it be 10, 50 or 100 amendments? Second, what about the regulations, and when can the committee see this package?

Mr. Church: You do ask vexing questions. I think the 100 is closer than the 10 or the 50. The amendments are very close to being presentable and final. As I understand, there are very few issues left for the Rent Review Advisory Committee on amendments to the act. We will be able to provide that in the very near future.

The regulations are somewhat more complex. I am informed that we are working with the committee on the ones that are substantive. It is obviously important to the committee to bring them in final form as quickly as we possibly can. Where it is obvious that we will not have final form, we will at least present the principles that will be reflected in the regulations. We will do that as quickly as we possibly can.

Mr. Chairman: At some point, you may want to sit down with the steering committee of this committee to talk about reprinting a bill only for committee use to work through the amendments. When you are changing numbers of the sections of the bill, it is extremely difficult to move through the amendments without having it in printed form in front of us. We should take a look at that with you and whoever is responsible for that.

Mr. Pierce: May we suggest that the amendments be in heavier print?

Mr. Chairman: None of this reflects on the ability of the original drafters who drafted the bill.

Mr. Church: Just as a quick point, the drafters are utterly innocent in this. It is we policy people who are responsible for all these amendments.

Mr. Chairman: That is right. That is why I thought I should say that.

Any comments on the vacant units?

Mr. Davis: I want to get clarification. I understand that if a unit sits vacant, the landlord can charge only the residential complex cost index, what he would normally get.

What would happen if he applied for a rent increase prior to vacancy, gave notice and then the apartment became vacant and it was approved? Could he charge that?

Mr. Laverty: Yes. If he has a rent review award for eight per cent, say, then the legal maximum rent on that unit has gone up by eight per cent, and when he re-rents it he can rent it at that rate.

Mr. Chairman: I think we are ready to move on to some new units.

3:30 p.m.

Mr. Lavery: As new units come on to the market, there is a question on how the first rents will be set. Under section 85, landlords will be able to obtain an advance ruling on how their investment will be treated under rent review. These rulings will provide considerable certainty to investors prior to making their financial decisions. However, for a number of administrative reasons, the actual first rent will be set at what the market will allow the landlord to collect. After the first rent is set, the rent will be subject to the legislation. This approach provides the landlord the maximum flexibility in marketing new units, and because of this, the approach will encourage new rental supply to the benefit of both landlords and tenants.

While it is theoretically possible that these rules could produce initial rents beyond the return specified in section 77, in practice such rents are not attainable in the market.

Mr. Callahan: When you talk about the rental unit being rented for the first time, is it the first unit rented in the new complex that establishes the rent for the entire building?

Mr. Lavery: No. It would be each unit, because the maximum rents are set on a unit-by-unit basis.

Mr. Callahan: Then you have to get equalization. Recognizing that it takes some time to rent a large apartment building, is everything kept in suspension until the final unit is rented?

Mr. Lavery: I would not call it a state of suspension.

Mr. Callahan: They are getting the automatic increases.

Mr. Lavery: Yes. If a landlord wishes to obtain a rent increase, that amount would be covered by the--

Mr. Callahan: The section dealing with vacancies.

Mr. Lavery: Yes. The rents would not be set on the vacant ones. The other ones would be subject to the increases outlined in the act.

Mr. Callahan: So the rental unit is actually defined as the total building.

Ms. E. J. Smith: No. It is the unit.

Mr. Callahan: I see. It establishes it individually for each rental unit. All right.

Mr. Chairman: Are you finished, Mr. Callahan?

Mr. Callahan: I have one thing further. It says, "shall be deemed to be the maximum rent for that unit except as otherwise provided in this act." In fact, would this not be what would happen? If you rented the first unit for \$900, let us say for argument's sake, pursuant to that section about the vacant units arriving at the same amount because of the rent being fixed, all of them have now been fixed at that same--

Ms. E. J. Smith: No.

Mr. Callahan: It says, "except as otherwise provided in this act," and it is provided in the act that if a unit is vacant at the time of the increase, that is the price of the unit.

Mr. Laverty: Technically, the vacant unit section applies only where it has been previously rented.

Mr. Callahan: Okay. Thank you.

Mr. Reville: We did not hear that answer. Is it contemplated to deal with trying to create a disincentive to future requirements for equalization? In other words, this would seem to allow a beginning rent-up at whatever the market will bear, which might not be the maximum rent. If the units are similar, you might find that the market bears different things on different rent-up days and that subsequently you are setting yourself up for more equalization grief. Why do we want to do that?

Mr. Church: Since the legal maximum rents are what we are regulating, the probability of those being deliberately different would be very slim. You would be looking at the initial rents being different and therefore being phased in to the legal maximum rent at a different rate; but when they got to the legal maximum rent, they would be controlled the same as any other equalized building.

Moving to a concept of maximum rent, the probability of new equalizations would be less. It does not mean they would be nonexistent, but they would be substantially less.

Mr. Reville: In this scenario where the building is being rented in September 1986, assuming all those things were in place, a prospective tenant can check with the registry, find out what the maximum rent is for that unit but notwithstanding that, may pay--

Mr. Church: Something less.

Mr. Reville: --something less and therefore knows that some day in the future the maximum rent may be demanded.

Mr. Church: Traditionally, the people who move in first will pay less and the people who move in towards the end will pay closer to the legal maximum rent.

Mr. Reville: So the equalization would not go through this process because there would not be any.

Mr. Church: It would be through the market.

Mr. Reville: Unless the maximum rents were set for some reason.

Mr. Church: They could be for some reason, but there would not be any incentive to do it. The predetermination would presumably establish equalized rents for equal units.

Mr. Pierce: I think I am confused but I just want to confirm it. If you built a new building with 100 units in it, you could find 10 people to take those units at \$900 a piece and the other 90 units sat around for six months. If as a result you reduced the rents to \$700 to fill the building, could you not then go for equalization in the next year?



Mr. Laverty: Under the scheme, the people at \$900 would benefit from the equalization.

Mr. Pierce: Where is that?

Mr. Laverty: Under equalizations.

Mr. Pierce: The people at \$700 would pick up the additional costs.

Mr. Laverty: The total rent collectible would be somewhere between \$700 and \$900.

Mr. Pierce: That is right. I am not confused on that part. The landlord will get the same money, but somebody will pay more after they move in. Right. I am not as confused as I thought I was.

Mr. Chairman: That would be true even if they moved in because of the particular level of rent they were paying.

Ms. E. J. Smith: His point was interesting because, as Mr. Church has said, assuming the first people who move in get the lower rent and as the building gets established the rents go up, not down. But it is conceivable the other way around.

Mr. Haggerty: It works the other way.

Ms. E. J. Smith: I would like to ask on behalf of Mr. Haggerty here, who is on the upper end of equalization, can a tenant apply for equalization? It says only landlords. Is that correct?

Mr. Haggerty: That is what it says.

Mr. Laverty: A tenant can apply under section 91 and would apply on the top of page 42 for the "variations and the reasons therefor in the rent being charged by the landlord for similar rental units within the residential complex." In effect, he is applying to have his unit equalized to that of the--

Mr. Callahan: He has to get into the unit first.

Ms. E. J. Smith: So, he could.

Mr. Callahan: You have to get into the units to find that out.

Mr. Haggerty: If I do that, it will cost me two per cent more. There is no way I am doing that.

Mr. Pierce: He has to get hold of the master key to find out.

Mr. Jackson: Would they not determine that once they had access to the register? They would know what other tenants' rents were.

Mr. Laverty: If you can hang on for a couple of minutes, our registry expert will be before you. I prefer him to respond to those questions.

Mr. Chairman: Would it not be an incentive for a tenant to apply for equalization if he was on the upper scale of the rental being paid?

Mr. Laverty: Yes. The way the act reads, the tenants on the upper

end of the scale have an incentive to do so. That is precisely the reason it is in both current and previous legislation.

Mr. Church: To be perfectly clear with the members, the propensity for that to happen will increase because of the registry.

Mr. Chairman: Yes.

3:40 p.m.

Mr. Reville: This is a question inspired by the recent discussion but it does flow backwards a bit. When you are trying to calculate economic loss, is that based on what you could have generated or what you do generate?

Mr. Laverty: I am not sure I understand the question.

Mr. Reville: That causes us a problem because that is the only way I can ask it. When we were dealing with your examples on economic loss, I assume that is related to your investment.

Mr. Laverty: Yes.

Mr. Reville: So it is financial loss that relates to what you actually collect rather than what you could have collected. In the question of the maximum rent and actual rent, for some reason or other you have declined to charge the maximum rent.

Mr. Church: My comprehension of the argument is substantially less than Patrick's so I can quite easily say you are correct. The financial loss is the difference between your actual performance and breaking even.

Mr. Reville: That may be different, though, from what your maximum rent is.

Mr. Church: Oh, yes, indeed. We would hope it would be.

Mr. Reville: I will probably ask this question again one day when I figure out another way to ask it.

Mr. Chairman: It may be asked right now. Mr. Reville.

Mr. Reville: No, it is Mr. Ramsay.

Mr. Ramsay: I am not sure if my colleague was going to ask it this way but it has given me a question. When we are talking about the loss section--I am sorry, I am diverging a bit--does frequency of vacancy contribute to the loss of the landlord? Is that part of what we are talking about, and therefore there is a way of recouping as Mr. Pierce was asking?

Mr. Laverty: The financial loss is calculated on the basis of the actual amounts of revenue and the actual amount of expenses. It is a financial calculation.

Mr. Ramsay: So actual vacancy does enter into it. In a sense, then, there is a catch-up mechanism for vacancy in the building.

Mr. Laverty: If the vacancies are such as to allow a financial loss, the difference between the current system of rent review and what we are

contemplating under the new system is that if there were extraordinary losses, instead of passing that through in a single year, which would markedly increase the rent base, that amount would be capitalized and spread over a long period of time so that the landlord would have his loss ameliorated. However, it would be in such a way that the impact on future rents would be spread so that the total impact on the tenants in any given year would not be very large.

Mr. Ramsay: So in answer to Mr. Pierce's previous question, there is a way for the landlord to recoup, but more gradually over a longer period and through increases, a similar loss incurred through vacancy.

Mr. Pierce: A complicated formula.

Mr. Chairman: Is there anything else before we move on to key money?

Mr. Laverty: I wish to deal finally with the social disease of key money.

Mr. Ramsay: Now we see a sense of humour.

Mr. Laverty: We are aware that some tenants in certain areas of Ontario are forced to pay large sums of money to landlords, superintendents or other tenants to gain access to a rental unit. Sometimes these amounts are blatant, but often they are thinly disguised as excessive payments for furniture or other commodities. The intent of this act is to make such payments illegal. The payment of key money constitutes an amount which should not be collected. Section 97 of the legislation covers the various forms of key money with the associated legal penalties in section 118. That concludes my presentation on both key money and part VI.

Mr. Stevenson: I take it that basically a tenant must squeal to report this; there is no other way of policing it. There has to be a tip-off of some kind or other.

Mr. Laverty: The ways in which evidence would come to our attention might be various. This matter is an offence that would be dealt with before the courts. Given that the powers of either the minister or the hearing board would not be such as to allow the legal penalty of a fine to be imposed, someone would have to bring that action before the courts.

Mr. Stevenson: When the supply is as tight as it is, what sort of confidence do you have that this practice is going to cease, particularly in some buildings that are relatively sought after as a place to live in?

Mr. Laverty: The problem with key money that we are facing is indeed the problem faced by any jurisdiction in that regard. It is a matter of evidence rather than a matter of law. The problem we are dealing with is a situation in which there is not the usual evidence that accompanies financial transactions and which gives a trail to it. I would not underestimate the difficulties of enforcement, but beyond declaring the law, there is a limited ability to go forward. We can simply give the right to the incoming tenant to take legal recourse under the act once he is in possession of the unit.

Mr. Stevenson: There is one other situation. So far, you have mentioned the relationship between a present tenant and either a new tenant who may be in a sublet situation, or the superintendent. There is also the situation of an arm's-length person in the middle, such as a broker or a real



estate agent. A current tenant is paid a fee to allow the agent to find a new tenant or sublet that apartment. Obviously, the new tenant can be charged an even greater amount of money. The intermediary is left with at least some and maybe a significant amount of money in his pocket. As you understand it, does this law stop this sort of brokerage of apartments?

Mr. Laverty: The wording of subsection 97(1) refers not only to the landlord, but also to any person acting directly or indirectly on behalf of the landlord. If there is a relationship between the agency involved and the landlord in this regard, then he would be covered. If the agency is entirely independent of the landlord--if it is a service set up by a third party to find apartments and it happens to charge a fee--and is something that goes back quite a number of years, that service per se would not fall within the act, again, if there is no relationship to the landlord.

Mr. Stevenson: In a sublet situation, there could still be a substantial exchange of funds.

Mr. Laverty: The tenant who is leaving the unit is covered under subsection 97(2). A tenant who is subletting would indeed be covered by the legislation.

Mr. Callahan: Does clause 97(1)(a) prevent the rather common practice of a landlord collecting \$50 from the tenant in order to sublet and calling it a "sublet fee"? It says "collect or attempt to collect from a tenant or prospective tenant of the rental unit a premium, commission, bonus, penalty or key deposit."

Mr. Laverty: The answer appears to be that it is not intended to, but we will review that section to make sure that interpretation is likely to be the valid one.

3:50 p.m.

Mr. Callahan: It probably should be. My experience has been that, in many cases, they already have the sublet tenant when the guy moves out and they just take \$50. It is extra rent, really.

Mr. Laverty: There is one complication: apparently, the Landlord and Tenant Act does allow collection of such fees. About all I can indicate today is that we will review that problem. Obviously, we will report back when section 97 appears.

Ms. E. J. Smith: Amendment 101.

Mr. Laverty: Perhaps.

Mr. Chairman: It is like a finder's fee.

Mr. Callahan: They call it a sublet agency fee. I have seen it worded many ways, and it can go from \$50 up. There is no ceiling on it. The tenant is anxious to get out; he does not care how he gets out, as long as he can get out. I just thought perhaps it should be included.

Mr. Davis: I would like to go back to equalization for a moment, just for my own information. What are some of the general reasons for a differentiation in apartments when buildings are of roughly equal value?

Mr. Lavery: There could be several reasons that unequal amounts might be charged for units. One of them is that when rent controls came in back in 1975, the various units could have different amounts charged.

The second possibility is that the landlord may have forgone guideline increases on some units, but not on others, because of the nature of the tenants, and that he simply increased them thereafter under the guidelines.

The third reason, which may occur before we look into the matter but not afterwards, would involve a situation in which the landlord had increased rents illegally on some units but not on others. Under the administration of the act, we are charged with ensuring that any rent ordered is a legal rent. That is part of the requirement in making decisions to establish that the rent base is legal.

Mr. Davis: When I was a few years younger, I lived in an apartment building. I was fortunate enough to have an apartment on the ground floor, with a balcony in the lobby from which you walked out to a grassy area. I believe I paid \$110 per month.

A colleague of mine had an apartment on the 15th floor. He had a beautiful view down Yonge Street into downtown Toronto, sunsets and all, and he paid about \$80 more than I did. Regarding your example of equalization, the apartments were exactly the same, except for that differentiation.

Mr. Callahan: It is safer up there.

Mr. Davis: It might be safer up there.

Mr. Callahan: Depending on which way it goes. If there is a fire up there--

Mr. Davis: Would a landlord be able to bring those rents to a process of equalization?

Mr. Haggerty: Or if you got the sun, you paid more, too.

Mr. Davis: That is right. What I am asking is, are they equal?

Mr. Lavery: Not necessarily. The question is really one of argument as to whether the units are absolutely the same or whether there is justification for a difference.

Mr. Davis: Okay. Let us say I am the owner and I make an application to bring them up to equalization. Let us say the apartment unit on the 15th floor has a view overlooking part of the Don Valley greenery; that view is worth \$535. The person on the bottom floor has an apartment that is exactly the same and pays about, let us just say, \$485. I want to bring that up. Does the review committee make the decision that I can bring it up?

4 p.m.

Mr. Lavery: My understanding is that in the period where equalization existed, the considerations the commissioners would use, and presumably the considerations under the new system, would be whether there was some reasonableness to the rent differentials being charged by a landlord.

It is not unusual for a small difference to be charged according to the floor level within a building. In some buildings quite outside our jurisdiction, in areas that may not even have rent control, such differences on a floor level do exist. The differential between floors as you go up is usually a matter of only a very small number of dollars per month; so it might not be inappropriate in some circumstances to consider such a differential. However, the landlord would have to do that in a consistent manner in his building, and the test the administrator would look at is whether that differential seemed to be reasonable in the light of the knowledge of the market that he would have in handling such cases.

Mr. Haggerty: The act would apply to set a maximum level that could be charged, would it not?

Mr. Davis: That is not what I am asking. The question I am asking is simple. Can the landlord equalize the rents for two apartments of exactly the same size and having the same amenities, when one apartment overlooks the paved parking lot and its tenant sees cars when he looks out the window, while the guy 12 floors up sees greenery?

Mr. Lavery: He could apply for an equalization. The question of whether the rents would be equal is a separate question. He might decide a differential according to floor level of an amount that would be typical in the market might be charged, and that would be the test he would attempt to apply.

Mr. Davis: If he applied, would the individuals who make that decision give him the permission to equalize rents?

Mr. Lavery: You must remember equalization does not necessarily mean equal. It means there will be an appropriate relationship between rents. Apartment units of different sizes may both have two bedrooms, but the larger apartment unit might wind up with a larger rent than the smaller unit after equalization. You have to be careful not to think that equalization means equal in all circumstances.

Mr. Davis: What I am asking is--

Mr. Chairman: Do not give up, Mr. Davis.

Mr. Davis: I think about the seniors, for example, in some of the downtown apartments in this city. These seniors--single women, for instance--are in units on the bottom floors. Their units are the same as those up on the 15th floor. The units are the same, but the views differ. The landlord makes application to have an equalization. What I am asking you, sir, is whether the people who grant the equalization will do so, even though the views are different.

Mr. Callahan: It costs more to pipe the water up there.

Mr. Reville: It comes from the top down.

Mr. Lavery: They might consider such an argument.

Mr. Davis: The possibility is they would not consider such an argument; so I can read your answer two ways. I would prefer to read it in the negative, which says the unit on the 15th floor of that apartment is worth--and I am just going to use a figure--\$435. For the unit on the bottom



floor of that apartment, there is a \$50 difference, spread over however you spread your equalization payment. What ultimately can happen is that the location of the apartment will probably not be a factor in deciding the equalization. The landlord would then be able to apply for and be granted an equalization.

Mr. Peters: I am going to take a crack at this one. It had been and may still be in some market areas common practice, as I think has been discussed, to have a differential by floor. My recollection when I was a renter was \$5 per floor, so that conceivably you would go up and pay \$5 more for the view wherever you may choose to live.

4 p.m.

To reinforce a point that Pat made, let us assume we are on floor 6. The rent is \$30 higher than that of the ground floor. Through a combination of circumstances that have previously been outlined, if that floor were all two-bedroom units--and let us assume they were all the same rent--over a period of time, there may be some difference, even though, among the rents for similar units on that floor, the \$5 difference is still maintained at the margin on the floor. So equalization could set an equal rent, even admitting of that \$5-per-floor differential. I do not think the rent review administrator would like to be in the position of arbitrating what is the best view and what a dollar value would be on a view.

That goes back to the point again that Pat made. Equalization does not necessarily imply equal. You can still have a situation where you have equalization without having the rents on the fifth floor the same as the rents on floor 1.

Mr. Davis: The example you gave us has the rents all equal. So what we are going to have in an apartment building then is the sixth floor having rent A and the fifth floor having rent B; but because they are all on the same floor and equal, then you can have a different equalization all the way through, as long as the overall increase is not--

Interjections.

Mr. Davis: Mr. Chairman, we will come back to this. I understand what you are saying.

Mr. Stevenson: Very briefly, back on this key money for a second, I think my previous questions covered this, but in case they did not, I have an example here of which I will read a small portion: "A \$1,000-dollar cash reward for a one- or two-bedroom apartment in this area." What is this legislation going to do with something like this that is posted on a lamp post?

Mr. Lavery: The payment of that amount would be a violation of the act. Therefore, if that amount were paid, then the individual who received it--assuming it was the landlord, his agent or a tenant--would be subject to the penalties of section 118, which is a fine of up to \$2,000 in the case of an individual and up to \$25,000 in the case of a corporation; in the case of directors or officers of corporations, it is \$2,000. Those would be the penalties that are imposed under the act.

Ms. E. J. Smith: It is kind of like soliciting. You have to be careful it is not the police who put up the notice.

Interjection: It might be a solicitor who put it up too. Who knows?

Mr. Chairman: Soliciting may be a good note on which to end this particular section of the bill.

Mr. Jackson: I know you wanted to close this off, but since we have this example on the floor, I would just ask a question. Would that person technically be offering an apartment or offering to vacate and receiving \$1,000? This implies that a person would vacate and therefore make room for this tenant, and he would give him \$1,000 to vacate his apartment. The way I read this, it would be an offence to offer your apartment, but that is not what the \$1,000 is for. It is a request that you vacate.

Mr. Callahan: No, but it says "require or attempt to require."

Mr. Stevenson: As I read this little sign here, this could be an individual who is looking for an apartment for himself or herself and is willing to pay \$1,000 cash to get it, or it could be a broker who is willing to pay somebody \$1,000 to get access to an apartment and then charge the new tenant more than \$1,000 to get the apartment.

Mr. Chairman: Mr. Jackson, I am not sure there is an answer to your legal question.

Mr. Jackson: I put it in the form of a question. What is the law's view if the person states upon being charged that he received a fee for advising someone that he would be vacating his apartment? That is all he gave money for. Whether he gets the apartment is not the issue. It was not a condition of his being offered it.

Since you have this currently going on, will it be covered by this or can someone hide behind that? If one can, then I suspect you have to word it a little stronger using "for any reason," instead of being as specific as the clause has indicated. That is all I suggested by my question.

I specifically asked for a legal response. If the ministry is unable to do that at this time, I would be pleased to listen to it later.

Mr. Chairman: Is there someone from the ministry who can give us that answer and perhaps conclude the question of what happens if the person says, "That is against the law, but I will sell you my drapes for \$1,500"? What happens then? I gather that we need a legal response.

Ms. Stratford: My name is Louise Stratford by the way. I am a solicitor with the rent review division. In response to your first question, if a tenant receiving the payment is not actually assigning the unit--in other words, if in your fact situation he is merely leaving it and he is giving no guarantee that that unit will become available to a prospective tenant who paid the money--then potentially yes, that is his defence. He is not committing an offence under subsection 97(2) as it is worded at present. That is correct.

Mr. Jackson: It is reasonable to assume even though it would be too cute by half that the tenant walks down and advises the superintendent that he or she will be leaving this weekend or would like to leave this weekend or something, and by sheer coincidence someone comes waltzing through the front door saying: "I am in desperate need of an apartment. Here are my references.

I would be willing to move in and here is my money"? That is too cute by half, but I cannot see a breach of the law the way this is.

Ms. Stratford: You would have to show that there was an assignment from the tenant who received the money to the person who paid the money to prove the offence.

Mr. Jackson: With all three parties willing, there would be nobody to disagree with him.

Mr. Chairman: What about the sale of drapes or rugs?

Ms. Stratford: That would be covered by clause 97(2)(d), whereby no tenant can require or attempt to require payment of consideration for goods or services as a condition.

Mr. Chairman: But that is being required to do it. If there is a mutual agreement, then there is nothing wrong with that.

Ms. Stratford: No. It is still an offence.

Mr. Chairman: The act itself is the offence.

Ms. Stratford: The tenant would still be requiring the payment regardless of whether it is being voluntarily paid. Yes, it would be an offence.

Mr. Davis: What would happen, though, if I were going to move out and I wanted to sublet, and when you come to see, I said: "I will let you sublet, but I do not want to take my drapes. They are worth about \$1,500." You know that what I am saying is that for \$1,500, you can have it. Would that be legal?

Ms. Stratford: If you can show that purchasing those drapes is a condition, then an offence is being committed.

Mr. Callahan: Going back to the suggestion that if they mutually agreed on it, you could not say that was requiring or attempting to require a prospective tenant. It is a mutual agreement. A requirement would be something where you would have to pay \$1,500 as a condition to get the apartment. If they both agree on it, it is not requiring anybody to do anything.

4:10 p.m.

Ms. E. J. Smith: Sure it is. Is it not the same as the key? Your drapes for the key.

Mr. Callahan: Yes, but you are not requiring them--

Ms. Stratford: I suggest that the argument would be that the person is being required to pay it. Perhaps he is (inaudible), but it is still a requirement for them to get the unit; so technically the offence is there.

Mr. Callahan: If my kids come up to me and ask me for money and I agree to give it to them, I am not required to give it to them, but I can agree to give it to them.

Ms. E. J. Smith: It is different for them, though. If they want to take their money and you are going to--



Interjections.

Mr. Chairman: Okay, thank you. There is still one more section to deal with, I believe, and that is the rent registry. Can you tell us, Mr. Peters, approximately how long that will take? I know it is dependent upon how simple you make the presentation, but how long will that be?

Mr. Peters: The actual presentation will probably conclude at 4:30 p.m., if that is the wish of the committee.

Mr. Chairman: All right. Then we will play it by ear in terms of how many questions there are. We will take a five-minute break to allow people to call their brokers while the machinery is being set up. We will recess for five minutes.

The committee recessed at 4:12 p.m.

4:20 p.m.

Mr. Chairman: The committee will come to order.

Mr. Braund is with us. I am not sure of your exact title. You are head of the rent registry?

Mr. Braund: I am the rent registrar.

Mr. Chairman: That is even better than being the head of the rent registry. He will take us through the whole rent registry aspect of the bill.

Mr. Callahan: Mr. Chairman, why are you framed in the drapes?

Mr. Chairman: They are for sale.

Mr. Braund: Good afternoon, members of the committee, ladies and gentlemen. My name is David Braund and I am the rent registrar of Ontario. I have the privilege this afternoon of explaining to you the provisions of part V of Bill 51. The registry provisions in Bill 51 are a cornerstone of the rent review program. The goal is to provide public information to landlords and tenants and to make the legislation enforceable in a way that was not previously the case and, thus, make the statute effective.

First, I am going to deal with several administrative matters within the registry for your information, and then I will deal more specifically with the legislative framework.

The information received by the registry on the matter of the rents will be stored on computer in a centralized office. Initially, we would expect to register rents for approximately 700,000 rental units across Ontario. Those would be included in some 13,000 residential complexes. Access to information in the registry would be through the local rent review offices. That would be by telephone--toll-free telephone if it is long distance--or by visiting the local office.

Mr. Pierce: Do we have copies of your presentation?

Mr. Braund: I am sorry, we do not have those available right now.

Mr. Pierce: Can they be made available?

Mr. Braund: Certainly.

Mr. Reville: There is also the slide show that is reproduced.

Mr. Braund: Yes.

Mr. Pierce: I realize that, but I think the opening remarks and the explanations would be worth while as well.

Mr. Braund: Certainly.

Each office will be equipped with both computer terminals and printers. This will make the information available very quickly for telephone inquiries and it will also allow the local office to give printed copies of the information if requested.

The information in the registry will be public and available to all members of the public. There will be no fees for landlords, tenants and prospective tenants to obtain information about single rental units. In the case of extensive data required, for example, by a private research firm, a modest fee will be charged to recover the cost of the services. Thus, the information will be available to the public by easy means, and the records maintained by the registry will permit enforcement of the act by the parties and by the minister now and in the future.

I am going to turn to the legislative framework for part V of Bill 51. The rents to be filed by the landlords in Ontario will be those rents that were actually charged as of July 1, 1985. For units that were not rented at that time but were later rented, the rent to be filed is the first month's rent when the unit was later occupied.

The question arises why the date July 1, 1985, was chosen, particularly since we are now facing registration, very likely, in early 1987. August 1, 1985, is, of course, the date that Bill 51 would extend universal coverage for rent review; in other words, bring in the number of units that were previously exempt. In order to avoid confusion, we chose the month before that time for the date. That is roughly the date the Premier (Mr. Peterson) announced the creation of the rent registry. Although there would be a small degree of retroactivity involved then, records should have been maintained by landlords in the normal course of their business for tax and accounting purposes since that time.

If the registry were to seek records from much earlier--and you will recall that rent review has been in existence in Ontario for about 11 years now--we would find that landlords had very legitimately disposed of many of their records or that they would not have them available because they were in the hands of previous landlords. The slide, I hope, will indicate to you and reinforce my point that it is the July 1, 1985, rents that are registered even if the registration date is considerably later.

One of the important things to understand about the rent registry provisions is that they provide for registration only one time by the landlord in respect of each rental unit in his holdings. The reference in the statute that I would direct you to is section 66. This provides for automatic updating by the registry of the rental information. After the initial registration, the registry will keep the rents registered up to date by recording the amount of any orders by the minister or by the board.

In the case where no order is issued, the registry will simply add the statutory increase for that year, which is now four per cent and later will be the residential complex cost index amount that Mr. Laverty described. The rents then will be the maximum rents--you heard Mr. Laverty discuss the maximum rent concept--and may therefore exceed the rents that are actually being charged at the time. You will also see in section 66 that certain other matters are maintained in the registry, such as the future phase-in amounts of economic loss, financial loss and so on.

This slide depicts the registration process from beginning to end, and I will be referring to it a number of times in my presentation. Before I deal with the various steps and while you are observing the contents of that slide, I would like to point out that in Bill 51, as it is now printed, landlords of boarding houses and lodging houses would be exempt from the provisions of part V unless an order was previously issued in respect of that building under the Residential Tenancies Act.

We will be bringing before you a government amendment that will change this provision so that the landlords of boarding houses and lodging houses will not be exempt, but regardless of the size of those buildings they will be in the second phase of registration, which I am about to deal with. In other words, after the amendment it will be the case that all rental units that are subject to rent regulation under the act itself will be subject to the provisions of the registry.

I spoke a moment ago about the two phases of registration. Landlords of residential complexes containing more than six rental units would be required by Bill 51 as it is now printed to file by October 1, 1986. Obviously, that date was in anticipation of the bill passing much earlier. We will ask the members of the committee to adopt an amendment that will give the landlords at least a period of 90 days after part V is proclaimed in order to fulfil the requirements of part V.

4:30 p.m.

It should be noted that, from assessment records, we have tried to locate the names and addresses of all owners of residential complexes of more than six rental units. We will be preprinting part of the registration forms for the assistance of landlords, and sending these forms to them as soon as the act passes.

Landlords of complexes containing less than seven rental units will be required to file on a later date. That will be proclaimed by way of regulation when the system is ready to accommodate that number of additional buildings.

Once again, regardless of which date the registration of those landlords is required, it will still be the July 1, 1985, actual rent they will be required to file under the statute. Landlords of small complexes will be permitted to register voluntarily before that regulation is passed and they will be required to register if they wish to apply for rent review because of section 64 of the act.

If we pass to the next slide, you will see that the information required from landlords under section 56 of Bill 51 will include certain information about the residential complex itself. They will be required to provide the owner's name and address, the landlord's name and address, and the building addresses included in the property or complex. Because you might wonder, there is a difference in the definitions of "owner" and "landlord" in the act,



although it is a subtle one. I am not sure it is worth further mention at this point, although I will be glad to answer a question if there is one.

At that level, there will also be a certification provided by the landlord that all the information in the form as filed is true, correct and complete, to the best of the landlord's knowledge and belief. That provision allows the registry to bring prosecutions for false information being filed.

There is a substantial amount of information required about each unit: the type of unit and its location; the actual rent that was charged on July 1, 1985; the major services included in the rent--hydro, heating, water, parking and cable TV--and the separate charges on top of the basic rent for such matters as parking, storage lockers, cable TV and so on. The effective date of increase must be known by the registry in order to add the annual increases.

If the landlord claims that a multi-year tenancy agreement--which is provided for under subsection 2(3) of the act--affects the lawful rent of the unit, the details of that lease must be provided to the registry. If a rent is not shown for a unit in the building because the landlord claims it is not covered by rent regulations, that fact and the reason would also have to be provided to us.

Bill 51 introduces a new concept for a rent registry. At present, the registry is accumulating the rents last ordered for all applicable rental units. All the most recent orders under the Residential Tenancies Act or the previous Residential Premises Rent Review Act, which declare or set maximum rents since 1976, are being loaded on to the computer. These ordered rents will be augmented by statutory increases allowed by the previous legislation. If you go back far enough, that is eight per cent, six per cent most of the time and, most recently, four per cent.

The rent determined through adding the ordered rent to those statutory increases will be compared with the registered rent for July 1, 1985. The rent comparisons must be within a minor variance factor, which is a prescribed percentage. That percentage will be established after further consultation with the Rent Review Advisory Committee. It is not known at present, but I will be glad to make the committee aware of the decision made after its recommendation as soon as it is available. In other words, the rent must be close to the lawful rent in the comparison.

That comparison is crucial to the registry in terms of the notices we send to the landlords and tenants involved and in terms of their rights. In the first case, a past order exists and the actual rent is apparently lawful or nonsubstantially higher. In that case, the challenge period for landlords, tenants and the minister is 90 days after the notice is given by the registry. After that 90-day period, the rent is deemed to be lawful.

When I refer to a challenge period, that means the period during which a landlord or tenant may bring an application to challenge the information recorded in the registry. It is felt that it is desirable to confirm the lawful nature of all rents which, through review of past orders, are not substantial violations.

In the second case, some rents will be identified as apparently substantial violations through comparison with past orders. In that case, the challenge period for landlords, tenants and the minister will be two years. Similarly, where there has been no previous involvement with rent review by the landlord of the property and therefore there is no prior order in

existence, the parties will have two years after the notice from the registry to contest the filed rent.

If we go back to the registration time line, you will see we are at the point of loading the orders on to the system, and when the registered rents come in, the order comparison can be done.

The next stage in the process is provided for in section 58 of the act. The minister must advise the parties of the information recorded for the unit in the rent registry, and this must be done as soon as is practicable after the landlord registers. Of course, this cannot be done until the order comparison determines the challenge period. The notices must advise the parties of all information recorded for the unit and of the length of the challenge period.

I am now going to deal with applications that can be brought by the parties, and I refer you to section 59 of the bill. Either party may apply to correct the information in the registry. Beyond that, the tenant has the right to challenge the lawfulness of the actual rent that is registered. In that application, the determination would be quite similar to an application under section 92, except a rebate would not be determined in a section 59 application. It goes without saying that the staff of the local offices would advise the tenant to also bring a rebate application if that were appropriate. The landlord may also bring an application to certify the rents as lawful.

In addition, there are some important provisions to which I draw your attention in subsection 59(4). In the case of a potential substantial violation of lawful rent, referring to the past order, the minister has an obligation to investigate the lawfulness of the rents registered. In cases where no comparison is possible because no prior order exists, the minister may and will investigate in all appropriate cases. As a result of that investigation, the minister may, on his own motion, bring an application to roll back the rent or to confirm the lawfulness of the rent, as is appropriate.

In the course of an application that is brought by a tenant to challenge the lawfulness of the rent, by the landlord to certify the rent or by the minister on his or her own motion, there are three situations which may arise. You will notice that the first case is different from the other two, because the rent will be found to be lawful in that case. The other two cases both involve a situation in which the rent review administrator will find the rent to be unlawful in itself, and the distinction between those two cases is whether the landlord registered on time.

4:40 p.m.

In the first case, we have a simple situation. The rent proves to be lawful after review, based on the past known rent plus all statutory increases that could have been taken since. Obviously in that case the minister, through the rent review administrator, would issue an order certifying the lawfulness of the rents that were registered.

In the second case, where the rent was found apparently not to be lawful, based on the past known rent and all statutory increases, the landlord may file information concerning costs incurred between 1975 and 1985 that might have influenced the lawful rent since 1976 if applications for rent review had been made, basically using any costs the landlord might have raised to the extent not already built into the rents by an order under rent review.

You should think of justification in the same terms as Mr. Laverty's presentation about the new bill. This is cost justification of a rent. Justified rents may be found to be less than the actual rent charged, and in that case the rent order would reduce the rent being paid by the tenant. On the other hand, the justified rent may be found to be equal to the actual rent, and it would be certified.

In the third case, the same situation prevailed and an apparently unlawful rent was found, but in this case the landlord did not register with the rent registry on time, as provided under the statute. In that case, the cost justification factors are not available to the landlord, and that cost evidence may not be filed to justify the unlawful rent. In this case the minister would issue an order that would roll back the actual rent.

In all the cases I have talked about, I have talked about applications. You should note that if the registered rent is not challenged by an application by a tenant, by the landlord or by the minister himself or herself within the challenge period, then the rent in the registry is deemed by law to be lawful.

I am going to turn to the situation in which a landlord will find himself in considering whether to register on time. Landlords will be encouraged by Bill 51 to register their rents. As I just mentioned, the cost justification is available only to landlords who filed on time. There is an advantage in so far as time starts to run for the challenge periods, and the liability for rebates payable to tenants may be reduced to those excess rents that were paid on and after August 1, 1985, only if the landlord registers on time.

In the ministry's dealing with cases of nonregistration, after January 1, 1987, no landlord application or appeal will be acceptable by the ministry or by the Rent Review Hearings Board if the landlord has not registered, regardless of the size of the complex. Second, if the landlord is three months late from whatever date is established after we know the date the act will be passed, the minister may order the suspension of rent increases, even statutory rent increases, upon notice to the parties. There would also be six-year liability for rent rebates for landlords who had not registered on time.

Finally, as Mr. Peters will describe in some detail tomorrow, there is the possibility that a landlord will be prosecuted in the quasi-criminal courts for the offence of failing to register, if he does not register.

This ends my presentation. My final comment is that part V provides an effective scheme allowing for rent information to be available to the public and considers comprehensively the legitimate concerns of both landlords and tenants in this new approach to enforcement of the legislation.

Mr. Chairman: Thank you, Mr. Braund.

The committee should decide whether it wants to proceed with discussion of the rent registry now. It is obvious we are going to need more time tomorrow morning to deal with the review process anyway. It is in your hands. If you want to adjourn now, we can go back at it in the morning, or we can finish the registry now, if it does not take too long, and deal with the review hearings and appeals tomorrow. Any feelings?

Mr. Callahan: The a.m., I think.



Mr. Chairman: You wish to proceed tomorrow morning? I think there is a sense in the committee that we have had about enough for today.

Ms.-E. J. Smith: It seems to me that we ought to start out the morning as planned with the two guests and then get back to this. I feel these people have volunteered a fantastic amount of their time; it would be more courteous for us to deal with them as planned. We can then move on to this. We are going to be around with this for a long time.

Mr. Chairman: Can we ask the clerk to talk to Ms. Hogan and Mr. Grenier to see how they feel about this? It would be nice to finish this off so we have gone through the whole process nonstop.

Ms.-E.-J. Smith: There may be people here this week who are anxious to hear their presentations. I do not know--I have not checked this out with any of them--but there are some people from the committee who may be hoping to hear their presentations.

Mr. Chairman: I am assuming we can finish this process in an hour or so. Is that fair? I know it depends on how you stimulate the members of the committee. All right? Let us try that in the morning. I will ask Todd to talk to the two people who will appear tomorrow.

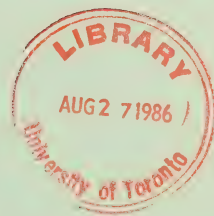
We are adjourned until 10 a.m. tomorrow.

The committee adjourned at 4:47 p.m.



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STANDING COMMITTEE ON RESOURCES DEVELOPMENT  
RESIDENTIAL RENT REGULATION ACT  
THURSDAY, AUGUST 21, 1986  
Morning Sitting





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Witnesses:

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)

Church, G., Assistant Deputy Minister, Corporate Resources and Building  
Industry Development

From the Rent Review Advisory Committee:

Grenier, W., Co-Chairman

Hogan, M., Co-Chairman

Griesdorf, G., Member

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, August 21, 1986

The committee met at 10:09 a.m. in room 228.

RESIDENTIAL RENT REGULATION ACT  
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: When we adjourned yesterday afternoon, we had been dealing with the rent registry. How could any of us forget? This morning we are going to put that on hold because we invited Mr. Grenier and Ms. Hogan from the Rent Review Advisory Committee to be here and they are here; so we want to proceed with them first. When we have finished with them, we will move back to the presentation by the Ministry of Housing.

Mr. Stevenson: Mr. Chairman, on a point of order: On this side, we have been quite pleased with the way the hearings have proceeded up to this point. The ministry staff has presented information on the bill with frankness and answered our questions with considerable substance, although at times it may have been frustrated with the type of questions we asked. Generally speaking, things have gone very well. Yesterday, in particular, Mr. Church was in the position of answering a number of questions that I felt were pseudo-policy questions. It seems to me it is now time to get away from a little bit of the frankness and substance and call the minister back in.

Undoubtedly, as we go through the hearings, there will be times when the bill will require some interpretation. There will be times when "what if" questions will be asked regarding policy and how the policy might be changed. I think the minister should be here in such situations. Bill 51 is a major bill; it is a bill that intends to change the thrust of rent control legislation for a considerable future. Because of this approach, I think it is imperative that the minister be here. In fact, I cannot think of many bills of this importance when the minister has not been present in the past.

We are also concerned by the minister's comments made to the committee and to the media that this bill should not be tampered with, that it was put forward in its present form for many reasons and that it should be kept in its present form. Nevertheless, we hear that the government may be bringing forward as many as 100 amendments to its own bill. It seems to me that, clearly, there will be changes made to the bill as we go through it. We wonder whether the government itself knows what it is doing. We wonder how workable the bill is in its present form when the government plans to bring forward so many changes.

Over the past few months, the minister has had a great deal of superficial, flowery rhetoric about housing policy, particularly on this bill. Then we hear statements that the bill cannot be tampered with, and yet we have a truckload of amendments coming in. With that sort of background, I feel it is absolutely imperative that the minister be here to face the music and answer the questions. I suggest that the committee request his presence throughout the hearings.

Mr. Chairman: If you want the committee to request the minister's presence, you should at some point draft a motion to ask the committee to do that.

Ms. E. J. Smith: Is it the position of the member that he would want the minister here for the discussion and so on of amendments, which would be one question; or is it his position that he should necessarily be here through all of the public presentations? He intends to be here for amendments.

Mr. Stevenson: I feel he should be here much more than that. If he chooses to be away while we are going through the remainder of the slide presentation the ministry has prepared, that is fine; but I do feel the minister should be here for a large portion of the public hearings, and when he is not here, his parliamentary assistant should be here.

Ms. E. J. Smith: As the chairman is aware, I am sure, the minister does not have a parliamentary assistant. Therefore, you could regard us as his assistants. Basically, I gather from what you say that you think he should be here for a substantial number of the delegations; your position is not that we can never proceed without his presence. I just wanted to be clear, because obviously we want to take your message to him and receive his response. I believe he is coming this morning. Is there anyone from the ministry here who can confirm that?

Mr. Chairman: We can get an answer to that in a moment.

Mr. Davis: Mr. Chairman, I concur with my colleague and with Ms. Smith. It is imperative that the minister be here with his staff for clause-by-clause debate; that is a given. What is very important is that here we are discussing the policy and what the bill means. We have an interpretation given to us by staff, and there are a number of questions we want to clarify with the minister before we begin the public hearings in order to ascertain that our understanding is the same as his understanding or that there is a difference.

As you know, Mr. Chairman, I am new, but I have been on three committees in which there has been the presentation of bills. In each one of those cases--Bill 54, Bill 55, Bill 30 and Bill 94--the appropriate minister was present when the staffs were making their presentations to answer questions. It is imperative that Mr. Curling arrive here at some point to answer some of the concerns and questions that have arisen, on which we need clarification. He is the Minister of Housing, it is his bill and he should be here to make the appropriate remarks.

Mr. Chairman: The message is coming through. Does anyone wish to add anything new?

Mr. Jackson: Mr. Chairman, have you had any specific dialogue with the minister with respect to his attendance at this meeting, and what was the nature of that discussion?

Mr. Chairman: Do I have to swear to this? I did have one short conversation with him in which he indicated to me that he intended to be here a lot of the time, but it did not go any further than that. He said, "Is that not a good idea?" I said that yes, I thought it was, but that was as far as the conversation went. Are you finished?



Mr. Jackson: No, I am not. This is far more serious than we are treating it at the moment, given the fact that we are dealing with one of the most significant bills of the year or that will be done in the last quarter of this year. We are dealing with matters of significant policy that appear to be being moulded as a consequence of questions being raised in this environment, and the minister is not present.

I feel that if we are going to have the staff of the Ministry of Housing as the official spokesmen and interpreting policy statements of the minister, then the minister should be here, specifically with respect to some concerns raised about the stimulation of the new housing market, where the minister is apparently saying one thing but the ministry economist has a view that the development may be targeted in a specific area and may not be as general as the minister believes in his own mind.

I am further quite shocked to learn that after two days of hearings Ms. Smith would indicate that the four Liberal members of the committee were able to speak on this bill, when most of the inquiries--

Ms. E. J. Smith: I was being somewhat facetious. Please.

Mr. Jackson: Okay. Most of the inquiries are coming from your quarter, and we would have hoped that within your own caucus you would have had a much more thorough examination of this bill, since it is a matter of your government's policy.

I think the matter is somewhat serious. If the chairman wants this in the form of a motion, I believe the minister should be here to assist with his own bill or at least be held accountable for the clarity of what it is all about.

10:20 a.m.

Mr. Chairman: Perhaps before we go any further, we could ask Mr. Church, who is the assistant deputy minister and acting deputy minister in the absence of Mr. Cornell, just what the intentions are of his minister.

Mr. Church: It is certainly the minister's intention to be present as much as is necessary and as much as possible. I know it was his assumption that the presentation of both the staff information and the Rent Review Advisory Committee was of a background nature, and he had not thought his presence would be required by the committee during that. I know he would be delighted to come at any point; he is certainly very interested in being here.

I do not doubt for a minute that he agrees with the views expressed by the members that he should be held accountable and that he would be happy to be.

Mr. Chairman: Do you know if the minister intends to be here today?

Mr. Church: Yes. His assistant in the back is nodding that he does plan to be here. Kathy, do we know at what time?

Ms. Macpherson: He is not in the office at the moment, but he is coming in.

Mr. Church: He is certainly planning to be here at some juncture this morning.

Mr. Reville: I am happy to support any motion that comes forward from my colleagues in the Progressive Conservative Party in respect of the need for the attendance of the minister here. We did it a bit more quickly than they did.

Mr. Callahan: Perhaps to clarify the statement made by Mr. Jackson, we are going through the bill and having it explained to us section by section, which is very appropriate. We are trying to understand the workings of the act, which is what we are going to have to understand as well as the public. I do not see any problems with that.

I do not see any policy issues that have been raised thus far. It has been a question of interpreting what the sections mean. That is all it has been for me, really.

Mr. Chairman: We have had a good discussion of it. I know the staff will be conveying the views of members of the committee to the minister and I assume he will appear in due course. Can we move on to the first presentation?

Mr. Reville: On a point of order, Mr. Chairman: Has the schedule for August 25 been developed yet?

Mr. Chairman: Good point. The August 25 schedule is falling into place. There will be enough people who can appear on Monday, so that we should proceed.

Mr. Reville: That will be one o'clock?

Mr. Chairman: One in the afternoon until five and then, in the evening, seven until nine. I understand it is basically full now.

Mr. Reville: Thank you.

Mr. Chairman: The demand is there.

I wonder if Mr. Grenier and Ms. Hogan could come to the table. While they are getting settled, it would be appropriate if Mr. Church would outline the role and mandate of the Rent Review Advisory Committee before they begin.

Mr. Church: As members requested yesterday, we have provided an outline of the terms of reference, purpose and membership of the Rent Review Advisory Committee. It has either come around or will be coming around very shortly.

Essentially, the Rent Review Advisory Committee consists principally of advocates of a number of landlord groups and a number of tenant groups who have traditionally taken fairly adversarial positions relative to the management of the rental housing market.

Last December, in the minister's assured housing policy, he announced it was his view that these adversaries would have to be brought together to try to produce a consensus on the direction in which the rental market should go. However, he did not do that in a vacuum. As you know, he presented the December 16 policy paper as an outline and then approached individuals who

were prominent spokespeople for the various interest groups and asked them if, in conscience, they could work within that outline. On behalf of the minister--noting the comments earlier today--I know he has been deeply grateful to the members of the committee who have given an enormous amount of time and taken considerable personal battering as they work their way through what are highly contentious adversarial issues.

Mr. Grenier and Ms. Hogan represent the people who have stuck their necks out farthest. I should say on the minister's behalf that he fully recognizes that nobody on the Rent Review Advisory Committee individually is endorsing this package as a panacea. Everybody views it as a compromise, as something that will make the system work, but certainly not as his personal view. I am sure both Mr. Grenier and Ms. Hogan will make that crystal-clear in their discussion shortly. It is and continues to be the principal group on which the minister depends for policy advice.

As staff, we see our role almost exclusively as being a supporting group to the RRAC people, although several of us are members of the committee and have been accused occasionally of trying to manipulate it. The RRAC members have established strong connections with the minister and are the people with whom the minister credits having built the statute.

That leads directly to the reason there are so many amendments. RRAC has reviewed the bill and in many instances has seen a discrepancy between the bill and its report. The minister has made a firm commitment that wherever that discrepancy exists accidentally, he will introduce amendments to correct it. That is where most of the amendments come from.

With that brief introduction--

Mr. Chairman: Thank you, Mr. Church.

I do not know who is leading off here. Ms. Hogan, will you proceed? Do you have a presentation and copies of it?

Ms. Hogan: I do not have copies. It is handwritten. I can get you copies if you would like that for your records. I am quite happy to do that.

Mr. Chairman: Okay. Thank you.

Ms. Hogan: First of all, I will give you some of my background. I have had many years of experience in the housing field. At present, I am the director of Parkdale Community Legal Services in the west end of Toronto. I teach the law on residential and commercial tenancies at Osgoode Hall law school.

I have been a tenant advocate since the early 1970s. I participated in a similar process to this in 1975, when rent review first came into being and the security of tenure provisions of the Landlord and Tenant Act were also being considered. Later on in the 1970s, I again had the distinction and honour of spending about six months of my life before another legislative committee that was looking at the Residential Tenancies Act, or Bill 163, as it was known then. I was also junior counsel to our present Attorney General (Mr. Scott) at both the Court of Appeal and the Supreme Court of Canada when the constitutionality of Bill 163 was being tested. I come to this process with a fair amount of experience and, perhaps, history in the field of housing in the province.



Today, I speak solely as the co-chairperson of RRAC. I will start referring to the committee as RRAC. I think it is easier. That is the Kent Review Advisory Committee the minister has set up. I have almost forgotten its full name now, I am so used to calling it RRAC. I want to make it clear that I am speaking on behalf of RRAC, because my office, Parkdale Community Legal Services, will present its own brief later, as will many other groups advocating the tenants' position.

I am sure you have heard the Minister of Housing say to you that the process involved in getting to Bill 51 was unique. It certainly was. I commend the government for its approach. Even before the establishment of RRAC, the government consulted widely. Suddenly, tenants had access to the decision-makers, which was something new for us. The establishment of RRAC was also an innovative step. In my opinion, while tenants have always been willing and in many cases quite eager to talk to their landlords, this is the first time I am aware that the government has set up a formal mechanism for the two interests to sit down and talk.

Talk we did, on many occasions well into the early hours of the morning. As a result, the landlords now say they begin to understand some of the problems tenants encounter, and the tenant representatives on RRAC began to understand some of the financial reasons behind certain decisions that are taken by landlords.

The process the committee went through to produce its report has to be looked at as a series of compromises that were arrived at through negotiation. This is not a tenants' package nor, the landlords insist, is it a landlords' package. It is a first step in a continuing series of steps that must be taken to resolve the housing crisis.

10:30 a.m.

The overall picture must be examined and strategies devised that will look to the future, not just the present. As I indicated at a press conference after the RRAC report was presented to the minister, I consider it to be a fairly generous package for landlords, one that I hope should quell their complaints about not being able to make enough money in the rental marketplace. Examples of what I mean here would include the guideline increase, treatment of post-1976 buildings and financial treatment of capital expenditures.

In return for some of these incentives to landlords, the tenants obtained some of their demands. Some of these are incorporated into Bill 51; others are not. These would include demolition and conversion controls, which we have seen in passage of the Rental Housing Protection Act, mechanisms to ensure better maintenance of buildings, provisions for costs no longer borne, input by tenants into capital expenditures, increased supply at the lower end, a rent registry and some form of protection for roomers and boarders.

To say we no longer have concerns would not be accurate. One of the important elements for the tenant side of the RRAC is the periodic review of the guidelines, which is to commence in 1989. If the builders have not begun to build, then we would have to rethink a number of the more generous elements of the bill. From the tenant point of view in RRAC, the next few years are a trial period. We are saying: "Okay, landlords and developers, now that we have eased the financial constraints you have been complaining about, show us that you are interested in providing housing. Start building. And at the same time, let us make sure that you maintain your existing buildings at a good level."

Another concern that tenant members have is that the recommendations in the RRAC report which met tenant requests actually materialize. Of particular concern are some of those items that are not included in Bill 51. An example would be the whole issue of supply at the low end. The RRAC report calls for 3,000 additional, nonprofit and co-op units per year until the need is met. We have learned recently that these units may not actually materialize until 1991 or 1992. Our attitude is that this is not good enough. We want to see those units coming on stream now.

We are looking to the private sector to start supplying units at the higher end, and if you believe the trickle-down theory, that should help some of the need at the upper echelons of the middle level. But where we need some assistance as well is at the low end. We are very concerned about affordability. We are looking to government to bump up the number of units that are coming on stream at the low end.

In concluding, let me note that we attempted to remedy the defects in the present system--and there are a lot of defects in the present system--problems such as long delays in getting hearings and orders, the charging of illegal rents and the stacking of costs by landlords. We have tried to remedy some of these, while at the same time maintaining tenant security of tenure and encouraging the private sector to build.

We have also tried some new approaches to compliance. Here I would use the registry as an example. There are incentives for landlords to register, an approach I will call the carrot approach as opposed to the stick. I know some tenants are unhappy with this approach. However, the stick has not worked very well in the past. In addition, we have learned from the landlords on RRAC that landlords, just like anybody else, will always find a way around provisions they do not like. Sometimes they need incentives and they work better. Again, I have said: "Let us try it. Let us see if it will work." I hope it will succeed where we have failed in the past. I think this is what Bill 51 is all about: some new approaches, some new strategies. At this point I am saying, "I suggest we try them." I hope they will work.

Mr. Chairman: Thank you, Ms. Hogan. Mr. Grenier, did you wish to say a few words too?

Mr. Grenier: I might say a few carefully chosen words. First, I endorse almost everything that Mary has said.

Ms. Hogan: Almost everything?

Mr. Grenier: Almost everything. You can see we do tend to have our differences from time to time.

First, a little background. I am a builder-developer and have been in the business for 15 years. We have put in place about \$350 million to \$400 million worth of rental accommodation during that time. That is approximately what we have in our portfolio now.

My name is William Grenier. I am the chairman of the Fair Rental Policy Organization of Ontario and the co-chairman of the Rent Review Advisory Committee. The Fair Rental Policy Organization is an umbrella group founded in 1985. It represents approximately 200,000 units owned and operated by various landlords and management groups throughout Ontario. As well, members of the Urban Development Institute, the Canadian Institute of Public Real Estate Companies, the Multiple Dwelling Standards Association and the Association of Canadian Real Estate Syndicators are members.

If you will bear with me for a few minutes, I would like to set the backdrop for my remarks, because I think it is important that the history of what has happened and why we are here today comes through. The history of landlord and tenant relations has been, at least in the public eye, one of heightened confrontation over the past 11 years.

Prior to 1975, the building industry provided rental accommodation to the people of Ontario based on the certain laws of supply and demand. Vacancy factors hovered in the area of three to five per cent. As they edged closer to five per cent, building starts slowed until the demand caught up with supply. The system remained pretty much in balance because supply outstripped demand. Inducements were offered to tenants by way of one or two months' worth of free rent, free parking, colour television sets and other gifts to persuade tenants to sign leases.

In 1975, however, the economic swing throughout the country pushed prices to an extremely high level across the board in virtually all commodities, including food, clothing, shelter and other consumer goods. The federal government of the day introduced wage and price controls for a temporary period to take some of the heat out of the rising marketplace and to provide a temporary respite from what was perceived as the potential for runaway inflation. Controls proved to have a calming effect on the marketplace and after a short period were removed, as an artificial control in the marketplace must be, or an economic dislocation will follow.

There are few economists in the world who will subscribe to any other economic theory other than that wage and price controls cause severe dislocation in any marketplace if left on for anything but a short time. In most cases, these types of controls apply only to emergency or wartime conditions and have been ineffective in anything but the short term in any society anywhere.

In 1975, as a result of the inflationary pressures I have been referring to, a number of highly visible cases of economic hardship afflicted a number of tenants in Ontario. In response, the government of the day instituted rent control as a temporary measure. It was designed to have the same calming effect as wage and price controls, and, as wage and price controls, was designed to be temporary.

As most landlords took the government at its word that rent control was to be temporary in nature, the reaction in the industry was one of resignation to a perceived short-term problem. As controls became embedded in the system and then continued on a trend that indicated there was no impending change except on a downward scale, the industry became at first alarmed, then angry and then began to abandon rental apartment construction altogether.

Several major corporations whose portfolios consisted of many thousands of units of rental accommodation simply sold out and walked away from the industry. Many other efficient producers held on but produced no more. Construction of rental units virtually ground to a halt. As return on investment began to diminish and then to head into a loss situation, some landlords used whatever means they could to prevent economic ruin. As in many grey areas, there were people beating the system.

There is no question this climate provoked more and bitter confrontation between landlords and tenants and caused further slippage of the rental construction industry and its willingness to risk capital in a system that had to bear not only the risk of the marketplace, with its attendant profit and loss, but also the risk of loss of capital,



As the supply factor ground down, vacancy rates also dropped. With a view to a "fix" of the situation, the federal government, at the request of the provinces, instituted various incentives. The incentive system tried to induce individual small investors to invest part of their income in residential accommodation on the basis that they would enjoy a tax benefit for putting their money at risk in a marketplace in which the economic viability of a building was uncertain at best.

Thousands of buildings were built across the country under this system, and in many cases the investors achieved the end set out in the pro forma originally proposed by the industry. Most pro formas were built around a 10-year program which showed the building coming into economic viability between the seventh and the 12th year. Under ideal conditions, some of them came into economic viability prior to that time; others were slightly behind.

10:40 a.m.

The assurances given at that time to those investors by the various arms of government was that those post-1976 buildings would never fall under the rent control umbrella. So we wound up with two classes of buildings. One was the pre-1976, rent-controlled unit that kept prices artificially low and those units that were built post-1976 on long-range planning using tax and other incentives but ones that would eventually realize a profit. The latter were at a distinct advantage over the pre-1976 buildings. It was also obvious that they relied on the government's promise that those buildings would not fall under rent controls. The industry was therefore fractured between the haves and the have-nots.

During the past 10 years, there was little consensus in the industry on what should be done about rent controls. Many landlords submitted various briefs and proposals. They received little sympathy either from the government or from the public. It was fairly obvious that tenants outnumbered landlords on a ratio of approximately 10 to one. While recognizing this, the industry failed in its attempt to persuade the government, the public or the tenants that rent controls were counterproductive.

The election of 1984, however, brought a new measure of severity to both the industry and, by now, tenants as well. Vacancy factors had dropped to a ridiculous one half of one per cent. Construction had slowed dramatically since the multiple-unit residential buildings program had been discontinued and other economic packages were cut back.

Tenants were finding it extremely difficult to find any freedom of choice whatsoever. The landlord was under a form of control that was more and more difficult from an economic basis, and at a time when all three provincial parties were packing a further tightening of rent control down to a four per cent level, it became obvious to the industry that a point of no return had virtually been reached.

With the Liberal-NDP accord, the coming into power of the Liberal government and the inclusion of all previously exempt units under the rental control network, the industry regrouped and began to do some in-depth studies through an umbrella organization called the Fair Rental Policy Organization of Ontario.

My colleagues and I in the Fair Rental Policy Organization approached the Minister of Housing and requested a hearing at which we could put forward some of our findings to convince the government that the course upon which it

had set itself was a dead end for the rental industry and, ultimately, for the tenants of Ontario. The minister convened several meetings at which he heard our case, apprised us on a number of tenants' concerns and suggested that rather than talking to him, we talk to each other. It is almost ironic and causes me no end of embarrassment to think that I had not thought of such a simple solution myself.

To speak to the tenants directly, an umbrella group of tenants had to be put forward which would also have credibility and be as representative as possible of the needs and desires of a large segment of the tenant population. A group was formed, headed by Mary Hogan, and Mary and myself were approached to form what is now known as the Rent Review Advisory Committee or RRAC. The nine landlords, nine tenants and members of government staff at interest met frequently from January through to April.

All of us gave up many hours and weekends away from our businesses and families and began to piece together bit by bit what eventually evolved as the committee recommendations. To be sure this committee understands the procedures--although I know you are familiar with the results--for the record I should say that commencement of the dialogue between the landlords and tenants was pretty much as expected: considerable rhetoric and much posturing, a little substance and, at times, even venom.

I know that some of us on the landlords' side were viewed by the tenants as slightly to the right of Genghis Khan and nothing but total capitulation by the tenants would do to meet our end. To be sure, we also took the attitude that the tenant groups were there to take as much out of the landlords' hides as they could. After some settling down, both sides became disabused of those ideas and the hard work of understanding and compromise began to take hold. We came to understand the sincere views held by the other side and, more important, the reasoning behind them. We then began to progress.

Each of the items in the RRAC agreement have been examined from the point of view of the parties at interest; i.e., the landlords, tenants and government.

In almost all cases, differences were resolved through a series of negotiations and compromises to the point where we were content to put our signatures on the final documents. I should point out that one member of the tenants' side saw fit to withhold his agreement, but we felt then and feel now that the agreement represented the views of the very large majority of the industry and the tenants. As in all compromises, needless to say, neither side had any feeling of elation when the deal was finally done, other than fatigue. Both sides felt they had given away more than they should have.

It must be understood that both the tenants and landlords saw themselves as operating under a certain degree of stress. From the tenants' position, they felt that if they did not negotiate a package, they were in danger of losing some of the things they dearly wanted or that those items would be placed in some government-directed regulation from which they derived no benefit. The landlords, for their part, felt they were under enormous pressure to concede what were known economic issues to attain an economic package that was at best deemed a survival package, somewhat the same as having a gun to your head. We are not jubilant about the end results, but neither does that mean we support it any the less.

Both Mary and I, as representatives of our various constituencies and as co-chairmen of the advisory committee, would urge this committee to view the

negotiated package as one that has been well thought through and laboured over for some considerable time.

You have heard before, and I am sure you will hear again, that we have struck what was termed a delicate balance. We feel a delicate balance will provide the protection that the tenants crave and indeed are entitled to, and one that we as an industry require and indeed are no less entitled to, in order to prevent the loss of shelter availability for Ontarians.

With respect, I advise the committee that the time has long passed for the pointing of fingers, the assessing of blame or the creation of fall guys. The past is behind us, and what we need to do when examining this bill is to learn from it. If we do not, as one noted historian pointed out, we are bound to repeat it.

Bill 51 is supposed to be the embodiment of the Rent Review Advisory Committee agreement. It does, however, have some shortcomings--shortcomings, I hasten to add, that only make it less than perfect. They are not shortcomings that should cause the bill to be substantially revised in spirit or in content.

Minister, it is nice to see you.

Through the RRAC, we aim for a harmonious working relationship among tenants, landlords and the government within the framework of a set of laws, regulations and guidelines that allow for security, wellbeing and obligations of the tenant, as well as the rights and obligations of the landlord.

There is no question--and it has been mentioned in both the press and the House--that the agreement has its complications. The formulas are complex, but their complexity should make them no less workable, because the end result is simple. The end result is fair. The understandings that have yet to be tried and the goodwill that has been built up should be given no less weight.

We do not know if the residential complex cost index formula is going to produce more housing. We do not know if the various provisions for tenant protection are going to work. I can tell you that with all the experience represented by both groups, we feel the economic factors are sound and the protection clauses workable. We know that tenant advocates will watch and monitor carefully to see that the provisions agreed to are adhered to, maintained and enforced.

As the landlord representative, I wish no less, and I can advise this committee of the wholehearted endorsement of that viewpoint by the industry. The time for rhetoric, placard waving and talks of renter and landlord strikes has passed. Our goals have merged, and while the dichotomies of our points of view are no less strongly held, they have been set aside for what we both see as a long-range benefit to Ontarians.

Having achieved this plateau, it now becomes extremely important to all of us here that we speak with one voice. On finalizing this bill, the legislators should recognize the same underlying principle that we as a committee eventually arrived at: namely, that any short-term gain at the expense of the other side would cost dearly in the long run and that the attaining of the solution which benefited both the producer and the consumer was a more noble pursuit than that of short-range, self-serving interest.

This committee has a fair task ahead of it. If you accept that our agreement has been reached through a correct process, if you agree that the



parties at interest are the most affected by the outcome of this committee and Bill 51, I urge you to dwell on the positive aspects of the RRAC agreement and to address those principles as we have set them out.

I urge this committee to examine carefully and in more depth and detail those areas on which we have not agreed. If I may characterize the agreement as 85 per cent achievement and 15 per cent as the area in which no solution or compromise was found, I ask you, with great respect, to address the latter area with appropriate scrutiny.

The issue of chronically depressed rent is one on which we found little common ground. The economics of the situation are simply such that some buildings have been under a rent control system that has caused them to fall far behind similar accommodation for a variety of circumstances.

While we both agree in this area, we have not been able to come up with a satisfactory solution. There is no question tenants fear that chronically depressed buildings are also the ones in the area of the most affordability. Tenants in those buildings may face rent increases they can ill afford. None the less, this does not mean the landlord should be subsidizing those tenants. We feel those tenants should be subsidized by society at large, not by the individual property owner. We would be pleased to see your recommendations in that area.

The maintenance board, and its various provisions for tenant input, was also an area in which we were unable to reach a solution. The landlord's position has been that the tenant has no financial risk in the building and hence may well be at odds with the landlord who wishes to upgrade his property and preserve his capital with a consequent possible rise in the rent structure.

10:50 a.m.

These two points and some other minor variations should not deter this committee from approval of Bill 51. Therefore, I leave you with one final thought.

The building industry is the largest single industry in Ontario, outstripping even the automotive industry. The rental accommodation segment of that industry has been extremely important and a very large percentage of the total. The one thing that is required for the returning to health of the rental construction industry is stability. It is extremely difficult to commit millions of dollars and to preplan for years into the future in the uncertain climate that surrounds us. The confidence factor must be returned. This can be achieved only if the industry can operate within a framework of known laws and procedures with reasonably certain outcomes and with a modicum of risk in the marketplace. It does little good to have reached a historic agreement only to find that it can easily or quickly be overturned for motives that have nothing to do with the long-range benefits for either the tenants or the landlords.

Ontario faces a housing crisis today. The agreement reached between the tenants and the landlords is a start towards addressing that crisis. Any abridgement of that agreement, to the benefit of either the tenant or the landlord, will worsen the crisis. Of that I am certain. I would like to say that again. Any abridgement of that agreement, to the benefit of either the tenant or the landlord, will worsen the crisis.

As a private citizen who has tried to make a contribution to my industry and, more important, to Ontario, I am acutely aware of the responsibility you face as legislators and I wish you well in your deliberations.

Mr. Chairman: Thank you, Mr. Grenier and Ms. Hogan. You have brought to the committee a background and a perspective and it is important that we understand that. I have one question before we ask members of the committee if they have any.

You mentioned a couple of areas where there was no real satisfactory solution by the committee. One was the chronically depressed section and the other is the maintenance board or maintenance standards. Do the tenants and landlords have their own views on each of those problems? If so, could the committee have those so that we could wrestle with them in our deliberations?

Mr. Grenier: From our point of view, a chronically depressed building is one that is in a situation where the landlord simply cannot get ahead no matter what he does under any formula that currently exists. We have not been able to come up with one that will solve his problem.

If a landlord has a building that is in distress from the point of view of maintenance and repairs and he cannot raise the rent to effect maintenance and repairs, then he has a difficulty. The fact that he can go to a rent review system and get cost pass-through does not necessarily mean he is ever going to come out. He may have a capital investment of \$500,000, \$2 million or \$3 million. That money is stagnant and sterile. Being able to simply maintain the building in its current status does him little good. He is in a situation of simply never getting ahead.

Some of the studies we have done under the formulas that have been provided show that an individual would take 27 years to catch up to the next-door building, taking a minor variation in percentages as a result. Twenty-seven years is too long. If you had to sit there for 27 years and work for the same wages you are working for now, I think you would find yourself falling behind.

It is not an easy solution. There is no magic wand for that one. That is a real nutcracker. That is a tough one. It is difficult.

A maintenance board is probably simpler. That is a view in philosophy. I personally do not want anybody telling me how to maintain my buildings. I have no objection to somebody making suggestions. I just do not want to have to be bound by it economically, especially if it is to my detriment.

Mr. Chairman: Do you have anything to add to that, Ms. Hogan?

Ms. Hogan: I can give you the tenants' point of view, which does not necessarily accord with the landlords' point of view. That is why we have not come to a agreement.

With regard to chronically depressed rents, from the tenant side of RRAC we have always had concerns about this. We have asked for some examples of these buildings. We wanted to see some of these landlords who are hurting. We have not seen those yet, although I keep hearing they are out there. We question the transfer of money in those buildings from the tenants to the landlords, particularly because we feel that in those buildings that may be targeted as chronically depressed, those are buildings where the tenants have particular problems of affordability, and we do not want to worsen those problems. If anything is going to be done in that area, we have to do it hand in hand with something being done for those tenants. It is fair to say we are still fairly far apart on that area. I agree with Mr. Grenier, however, when he says it is a very difficult one. There is no question that this is probably one of the most difficult issues we have had to wrestle with in our committee.

With regard to the maintenance board, as I said in my presentation, this is one of the key areas for tenants. We feel, as I indicated, we have eased some of the financial constraints on landlords, but in return we want to see some of that money finding its way back to the building and finding its way into increased maintenance. A lot of the complaints we are hearing these days are about the poor maintenance of buildings. We have to do something about that. We do not want to see ourselves giving more money to landlords and not seeing it returned to the buildings.

One way of policing that would be the setting up of a maintenance board that will set certain minimum standards across the province, will ensure their enforcement and will ensure their enforcement not just through inspections but through a tie-in with the rent review process.

This is one of my pet areas. I feel that landlords really feel the dollar and that one way of ensuring enforcement is to tie that to what the landlord is seeing financially. If you say to the landlord, "If you do not comply with the order of the maintenance board, you are not going to see a rent increase at all, or we will give you a certain period of time where we will have a rent increase stay," then that should ensure better maintenance across the province. As far as tenants are concerned, that is particularly key. Again, as Mr. Grenier says, we are still a little far apart on that one.

Mr. Haggerty: I want to compliment the two witnesses who have come before the committee this morning on their brief and suggestions. I am looking at page 8 of Mr. Grenier's brief, where he suggests:

"The minister convened several meetings at which he heard our case, apprised us of a number of tenants' concerns and suggested that rather than talking to him, we talk to each other. It is almost ironic and causes me no end of embarrassment to think that I had not thought of such a simple solution myself."

That comment should perhaps remove any fear of the committee members, particularly my Conservative counterparts sitting opposite, on the matters raised this morning on privilege, or a point of order, concerning the minister not being present this morning and the comment in the Toronto Star of August 20, 1986. It said the minister warned MPPs to leave the rent control bill intact. There is a good message in that--we listened to the brief this morning--because these people have no doubt worked long, hard hours there.

I have some reservations, or I raised some questions yesterday to get clarification, and I hope I will have that clarification before long. I will get it from somebody, but I will get it, and perhaps the committee members will too. I suggest to you there is a method that was open to the previous government for a number of years. It really has never consulted with the landlords or the tenants in trying to resolve the issues.

I am going to get a little bit political now. I think of the 1980--

Interjections.

Mr. Haggerty: I know what is going to come out of this. I want to refer to a letter I received--

Mr. Chairman: Mr. Haggerty, we are dialoguing with Mr. Grenier and Ms. Hogan this morning. Just keep that in mind.



Mr. Haggerty: Yes, I do. I recall a letter I received from a landlord in Port Colborne who was quite a developer in the area. The letter was in reference to the Minister of Housing at that time--I will leave his name out of it--who said during the election--and if the government had kept its promise at that time, perhaps we could have resolved the problem then--"If you support us in this election, we will see that we remove rent controls." That never came about.

I suggest the comments are well taken. I am sure the committee will have some further questions. I myself see the emphasis put forward by the Rent Review Advisory Committee as worth while. It is mentioned in the report this morning that we are satisfied with the present discussions and method which they arrived at in agreement.

11 a.m.

We may disagree with the comments that the proposed rent increases may be on some of those who cannot afford them. There were recommendations put forward in the previous comments that the committee should be looking at this area. What do we do with the people who are not in the higher-income or middle-income brackets? What do we do about housing needs for them? This is the next question the committee will have to look at.

You probably will not have to put up with me after today, because I will be off the committee. I am only filling in and doing my duty as a member of the government and the Legislature. I thought the message would come through loud and clear this morning. It should disperse any fear held by the Conservative members.

Mr. Pierce: We will miss you.

Mr. Jackson: Mr. Chairman, give him another 10 minutes.

Mr. Pierce: Are you going to Big Trout Lake after this?

Mr. Chairman: Thank you, Mr. Haggerty. Mr. Grenier wants to respond.

Mr. Grenier: With great respect, ladies and gentlemen, believe me, for the love of God, do not make this a political issue. If you do that again, there is no point to this whole exercise. It becomes a sham and a farce. I am not going to go through another sham and another farce just for a political rootball. If the NDP wants to throw rocks at the Tories and the Tories want to throw rocks at the Liberals and the Liberals want to throw rocks back, go ahead and do it, but do not do it with the people and do not do it with the industry. I do not think it is right and I do not think it is fair. We are here to try to give you a job of work. We spent a long time doing it. As soon as I start hearing this kind of rhetoric, I want to get up and leave. It does not make any sense. There is too much at stake here.

Mr. Pierce: As a supplement to the chairman's questions about the landlords and the tenants, the landlords who own the chronically depressed buildings and the tenants who are subject to living in those buildings, you said both sides of RRAC had real difficulty in dealing with how you respond to this kind of condition.

I am sure members of all three parties recognize that there are a number of people in a situation where they cannot afford to pay any more money and that there are landlords who cannot afford to do the repairs necessary to the

buildings to bring them up to a standard that would be required under the maintenance group of policing, if that is what it is to be called, or whatever.

There are no recommendations here about how to deal with this problem. You are saying to us that you wrestled with it as builders and you wrestled with it as a tenants' group and you found no easy solutions. Yet you are asking what the solutions are to be. As legislators, what are your recommendations towards the solutions?

Mr. Grenier: I can give you the landlords' recommendation, and the difficulty is that the landlords' recommendation does not sit well with the tenants. We say supplement those people who need help. Give them a rent supplement. Help the people who are poor, those that cannot afford it, the disadvantaged. We have said before, and I will say again, that we are our brother's keeper. We are supposed to look after those members of our society who are disadvantaged for whatever reason. Let us help them. It does not do any good to throw a net over the entire system and catch both the big fish and the little fish when you are trying to help only the little fish.

That does not sit well with the tenants at all. They do not want rent supplements because they see that money going directly into the landlord's pocket. In other words, the landlord will just raise the rent higher. But if you follow this through, our logic tells us that if he raises the rent and he has the income, then he can fix the building. If he does not, shoot him, throw him in jail, do whatever you have to do, but let him fix the darn building.

Ms. Hogan: As Mr. Grenier said, our concern is the transfer of money from tenants to landlords. We are not entirely convinced--I will moderate my views a bit--that these chronically depressed buildings really exist out there. If there are some, we find ourselves asking: "Why have the landlords got themselves into this position? Should we in some way reward them for that?" I do not want to give the impression we are against getting these buildings fixed up. That is clearly not our position. If there are buildings that need work and the landlords cannot afford it, then we should find some way of assisting them. The ministry has developed some programs to fix up some of the low-rise buildings. Perhaps they ought to be looking at some of those programs, but I think it is wrong to take from the tenants who have been living in substandard housing and give to the landlords.

The ministry has done some studies, but we are still waiting for some of the final results. We have not seen the examples the landlords have been talking about, at least not enough to convince us. At this point, we are not sure this problem exists or that there has to be a special solution for chronically depressed buildings.

Mr. Pierce: In the final drafting of the bill, there has to be a conclusion somewhere that there are chronically depressed buildings; there are some landlords out there hurting and some people who cannot afford to pay the additional rents required to bring those buildings up to standard. We do not want to walk away, after all the time you have put in on the committee in your group and the time this committee will spend studying Bill 51, and say: "There is still a problem out there. We know it, but we do not have an answer for it." That is not our position, nor can it be the position of the RRAC, that everybody recognizes the problem is still there, but that is the way it is.

Ms. Hogan: As a minimum, we want to see that the existing thresholds in Bill 51 are fairly tight; that the rents are 20 per cent off the average, that the building, as I recall, has not been sold since 1982 and that the

landlord is not making an economic return. We want to see those applied fairly stringently so that nothing is being done to assist the landlord in those cases that would affect affordability problems of tenants in any way. We want to be guaranteed that anyone in those buildings would be compensated as a result of whatever proposals you may come up with, if the impact on the tenants is one of affordability, and that their situation should not be any worse from attempting to assist the landlord.

The best we can say from the tenants' point of view is that we are a little happier with the thresholds now in the bill than what was suggested through our series of negotiations earlier. I know the landlords are not happy with those thresholds, but we want to make it as tight as possible to ensure that any money going to landlords goes to those who are hurting because of circumstances beyond their control.

Mr. Pierce: Is there some recognition that there are people living in low rental or below market rental accommodations who could afford to be in other areas, but are living there because the rents are depressed as a result of rent controls?

Ms. Hogan: I am sure there are some living at lower rents than they can afford. That is always going to happen.

Mr. Pierce: As a result, they are taking up accommodations that should be available to people who cannot afford them.

Ms. Hogan: I am not sure one can say that unless you get into a situation when you say: "Okay, these buildings are only for low-income people and those are only for others". We have to ensure that people still have a choice and will make decisions as to what they will spend their money on. I am not sure you can ever fully regulate that.

Mr. Pierce: If I could go back to Mr. Grenier's remarks about providing more money for people living in these chronically depressed buildings, are we not talking about a form of means test?

Mr. Grenier: Possibly. I do not think there should be a free lunch. From a philosophical point of view, there should be a sign over the door somewhere that says, "Money here," and people can line up and get it. If you subscribe to that theory, you are talking about rent control. That has about the same economic impact.

People walk into a building and because there is a regulation that freezes it, they are essentially getting a free lunch. There is no question they are going to live there as cheaply as they possibly can. On a personal note, I put it to any member of the committee, if you can buy something for \$10, why would you pay \$20? If somebody were to enforce a regulation that says the vendor has to sell it to you for \$10, why in the world would you pay \$20? It is human nature to buy as cheaply as you can.

11:10 a.m.

The difficulty is there are some people who cannot buy at any price. They simply cannot afford the accommodation they are in, no matter what the price is. Whether it is \$100, \$200 or \$500, they cannot afford it. Those members of our society have to be helped. I think the trick is to make sure they are the ones who truly need it and not the people who are looking for a free lunch.



How can you do that other than by a means test? Any time I apply for a credit card, I have to prove my worthiness to get that credit card. Whether the credit limit is \$200 or \$10,000, I have to prove I am entitled to one or the other. If you go for a driver's licence, you have to prove you have the ability and the wherewithal to do what you are supposed to do. There are means tests for everything. I do not see why it should be any different for a regulated industry. If you insist on a regulated industry, then surely there should be some means to take advantage of that industry.

Mr. Pierce: What is in this bill to entice the builders to go back into the construction of medium-priced to low-priced rental units?

Mr. Grenier: There is nothing in there.

Mr. Pierce: What I have seen of the bill and the explanations given to us in the past day and a half or two days indicate to me that the construction industry is still going to concentrate on luxury, high rental accommodation. From that, we have to look hopefully to the lateral effect, or whatever you want to call it, to make available some units at the low end of the scale for people who are now out there searching for any kind of accommodation to live in. I really do not see that as a good solution to providing rental accommodation for low-income families.

Mr. Grenier: It probably is not, but then more regulation is not a good solution either. Let me walk you through now the system works, if I may. Mr. Chairman, if I run on too long, please yell.

If you have 5,000 units being built and those 5,000 units are all at the top end--and you do not deal with old buildings; you build new buildings--even the cheapest new building you can build is going to cost somewhere between \$700 and \$900 a month. Somebody will give you some other argument that maybe it is going to be \$650, etc., but on the average, with land prices and buildings being what they are, that is what you are going to pay. That is too high for a lot of people, but what happens when those buildings come on the market is that people who are living in accommodation that is less than that standard--i.e., a building with no swimming pool, no recreational facilities or less than adequate parking--will then move out into the other building.

Call it whatever you wish, trickle up or trickle down, but they will move out. That creates a vacancy. That vacancy is then taken over by somebody looking for accommodation or somebody who will move out of substandard accommodation, so although you are building at the top end, you are providing vacancies all the way through the ladder. However, it does take time. When I said there is nothing in this bill to provide for low-income people, there is not. There are obviously government programs for subsidies, etc. I am talking about unsubsidized, free market buildings.

Mr. Pierce: Might I interject here? I would ask Ms. Hogan to respond as well. Statistics show us there are people looking for more accommodation than exists today and that trickle effect does not necessarily hold true.

Mr. Grenier: That is because we are so far behind.

Mr. Pierce: That is right; so this bill does not allow that trickle effect to happen because there are already too many people who are not in the low-income bracket out there looking for accommodation. There are not enough--

Mr. Grenier: You have to start somewhere. If you do not start with this, what are you going to start with? You have to start at some point.

Mr. Pierce: Let me put my question to Ms. Hogan. RRAC is represented equally by the tenants' groups. How do you see this as being a solution, part of a solution or even being part of the equation to a solution to providing rental accommodation to people in lower-income brackets?

Ms. Hogan: As I said during my presentation, I see this as only one step in a continuing series of steps. As I also said, one of our concerns is supply at the low end. One of the recommendations coming out of the RRAC report was that 3,000 additional units be built per year until the need is met at the low end. This is in addition to the already existing commitments that were made by the government in its assured housing package in December.

As I indicated to you in the brief, that is something that is not contained in Bill 51, because Bill 51 is looking at the rent review aspect of it. However, it is something that was very important to us as the tenant representatives on RRAC, and that is why I raised it here. Those additional units at the low end have to go hand in hand with the other provisions of Bill 51, or else we will not get anywhere in solving the low-end affordability problems. Coming from an area such as Parkdale, where I work, I see those problems every day, and that is my particular concern.

It will not come from the private sector--not at all. I am a bit sceptical about the trickle-down theory, but as I said in my brief, I am prepared to say: "This is a trial period. Let us get the builders building. Let us see what impact it makes at the higher end." We also have to look to the government to start supplying those units at the lower end. There is no other way.

Ms. E. J. Smith: Thank you very much for your interesting presentation. I want to follow through on one area in particular.

Like yourself, Mr. Grenier, when I was talking on the CBC on Tuesday before we started, I made the comment that I sincerely hoped this committee could deal with this, which is a very serious, common and provincial problem, with a minimum of political interference. By way of comfort, I would like to say to you that I have worked on two other bills with the chairman we have here, and in both cases we managed to achieve a great deal of rapport with a minimum of politics and political rhetoric. I think the chances are considerably good in this committee. I realize the importance of this.

Mr. Callahan: Have we designed the medal yet?

Ms. E. J. Smith: I say it sincerely.

The problem I want to follow through with you has to do with chronically depressed and the residential rental standards board. This board is something you people are still developing your recommendations on, so I am really interested in where you are going on this. I emphasize that I agree with Mary Hogan that the only way we can deal with the people who are housed at present in a lot of the chronically depressed, which I do believe exist, is by other programs. The minister has made it very clear that this is only part of an assured housing policy; the other part is a very vital part of it to house those people. I recognize that as an important link in this.

My concern is that as a group you have managed to reach a togetherness except for the chronically depressed, which is so much a problem of the whole policy. I am concerned that if the residential rental standards board is set up with the emphasis Mr. Grenier is giving to the chronically depressed problem, we may see falling apart rather than working together. Have you considered that the residential rental standards board should be dealing primarily with acceptable buildings and ongoing standards? That should be the prime emphasis and this chronically depressed problem should be dealt with separately, rather than bringing the friction of that problem to this new board.

Until you were speaking, I visualized the board quite differently from now you seem to be representing it to me, and I had a good deal of concern.

Mr. Grenier: I would like to add this comment on the point of our differences. When I say let us focus on the 15 per cent where we disagree, I should hasten to add that we have not completed our deliberations. The amount of goodwill that has been built up exists more today than it did even a few weeks ago. We are determined to come up with answers. Quite frankly, I think we will come up with answers. That we have not arrived at a complete solution yet does not mean we will not. It just means we do not have one to present to you right now.

11:20 a.m.

There are provisions in the bill that address the chronically depressed; they simply do not meet the criteria that we as landlords feel they should. The tenants obviously disagree with that sentiment.

As far as the maintenance board is concerned, there is another area which is less controversial and probably easier to fix. I dare say we will fix it. I do not have any doubt that we will arrive at virtually 100 per cent on everything. They just happen to be the tougher nuts to crack; that is all.

I would also like to mention to the chairman that there are several members of the RRAC here. If I could just go through with you for 30 seconds now we operated in the committee, we would form into small groups and tackle various difficulties, such as the registry, etc. We would assign two or three people from the committee from each side to go off and deliberate that. Thus, we have members who have wrestled with a problem who are more knowledgeable than either Ms. Hogan or myself. If the committee wishes, I know there are representatives here from that committee, and we would be delighted to put them up here as well for you to ask pointed and specific questions on those areas they worked on directly.

Mr. Chairman: To respond to that, Mr. Grenier, I have two points. One is that it would be nice to introduce those people. Second, I wish we had more time because there is an enormous amount of interest by members--my list is long--who want to dialogue with you. That is what we say on this committee. Are there ones in the room? Can you find them?

Mr. Grenier: If we could ask them to stand up, we could identify them. Would all the members of the RRAC who are here stand up? There is one more outside. We have a good representation of the committee, and some of those people worked very specifically on some of those items. If we are going to give you information, we want to make sure you get the best possible information.



Mr. Chairman: If there is a specific problem that is too precise, I appreciate that you cannot know all the details of every single aspect. Perhaps we could invite those people up to the table to respond then.

Mr. Grenier: Sure.

Ms. E. J. Smith: I appreciate what you are saying. I realize you are still working on it. I hope the residential rental standards board, which I could see having relevance to where I live, at Manulife here in town, which could never be described as chronically depressed, can have an image other than the chronically depressed and have an independent job so it goes on with that.

Ms. Hogan: If I may interject, I cannot resist.

Mr. Callahan: Ms. Hogan is going to say it is critically depressed.

Ms. Hogan: I think the example you have used is a perfect reason we need very tight thresholds, because I am told that if we were to use just one threshold, which was the 20 per cent off average rent, then the Manulife building might be deemed to be chronically depressed. That is exactly what tenants have been saying. We do not want to get ourselves into the position where we are in any way rewarding landlords of buildings such as the Manulife. There have to be additional thresholds such as we see in the bill.

In terms of the maintenance board, I want to make it clear that from the tenants' point of view we have never seen that as being tied to the chronically depressed buildings. That is there for all buildings across the province.

Interjection: That is a separate point.

Ms. E. J. Smith: Very good. Thank you.

Mr. Stevenson: To review a few points here, mainly to clarify a couple of things in my own mind, I see the RRAC group as in a sense a mediation type of group that has come forward with a very significant recommendation. I suppose your job now is to recommend to your client groups and to recommend to us that we pass something at least close to Bill 51 as printed or as corrected.

For my own purposes, I want each of you to give me two or three--I have written down here "gains," but I do not think that is the proper term--probably just inclusions in the bill that are most important to your client groups for adding stability to the rental housing system. As far as you see it, what few key items in the bill are important to your client groups?

Ms. Hogan: I am not trying to cop out here. It is very difficult to identify just a couple of key areas. From the tenants' point of view, because it is an overall strategy that we are looking at, I hate to simply dwell on what is in the bill itself. For example, I cannot separate the supply issues from what is in the bill, but I will give you some examples of what is important to us, and they are only examples.

Universality of rent control is important to include post-1975 buildings. A maintenance board for the enforcement of maintenance standards is very important. A registry is critical. Costs no longer borne is another one, particularly with regard to capital items, but also when there are changes in financing. Those are some and there is a long list.

Mr. Stevenson: Yes. Possibly while you are answering, you might then go on to say--I believe you answered this in your presentation--what are the main sort of shortfalls in the bill that you would like to see us address some time to?

Ms. Hogan: Perhaps I do not understand your question. I thought at first you were asking me where we saw the landlords gain.

Mr. Stevenson: No. From a tenant's point of view, what outstanding areas might be addressed in this bill? I do not want to get into things that are well outside of the scope of Bill 51 that are still major concerns to you. Within the scope that could be addressed in Bill 51, what are the outstanding issues of greatest concern?

Ms. Hogan: The greatest concern is the maintenance board. Chronically depressed is there, but the maintenance board is key. In giving what we see as some concessions around the financial treatment of buildings, it is very important to us that this money see its way back into the buildings and do what we are saying we want it to do. We do not want to prevent landlords from maintaining their buildings. If they need more money, fine, but let us make sure that money sees its way into the building. That is why maintenance boards are the key for us.

Mr. Stevenson: Did you have a plan on the table you suggested might guarantee that such money would get back into the building, or is it just more or less addressed as a concern and left that way?

Ms. Hogan: No. The establishment of a provincial maintenance board with the ability to set minimum standards across the province and the tying of the enforcement of those standards to rent increases were the key elements.

Mr. Stevenson: There was not sort of formula or input for it.

Ms. Hogan: If you look at the Rent Review Advisory Committee report, we went as far as the establishment of the board, minimum standards and the time, in some cases not allowing rent increases if the standards have not been met and in other cases putting a stay on increases. As Mr. Grenier has indicated, it is fair to say that we are still very much in the throes of trying as quickly as possible to come up with an agreement on specifics as to how that would be done.

11:30 a.m.

Mr. Stevenson: In many ways, you have already covered these things but can you just outline them briefly again, if possible?

Mr. Grenier: I would have to say that one of the things we are mostly looking for is the passage of this bill. I do not mean to be facetious at all. I will tell you why.

One thing the industry cannot operate in is uncertainty. Lack of confidence is the biggest single problem. The financial aspect of running a business is the whole raison d'être for the business. You do not run a business for any reason other than to make a profit. Let us make that clear. You do not run a business for the love of it. You do it because you are going to earn a living at it and make a profit doing it. If you do not, then you get out of it, if you can.

From our point of view, the single largest aspect of this thing is the ability to maintain our buildings, to keep them to a good standard and to be able to get the money to do it. The banks and mortgage companies do not lend money if they cannot get it back. That sounds simple in the extreme but, believe me, that has been the problem. You cannot get money to fix buildings if the bank does not think it is going to get it back. They ask a very simple question, "Give us your rent roll." When we give them the rent roll, they look at it and say: "This is the bottom line. You want \$100,000. Where are going to get it to pay it back?" We say, "We cannot." Then they do not lend the money.

Again, I say with respect, I recognize it sounds so simple and it is so simple. The difficulty is, as Mary pointed out quite correctly, how do you know that the extra rent you are going to get will go to actually fix the buildings or will the landlord go to Miami? The more regulations you put in, the less likelihood you have of having somebody willing to do it.

I have to point out something else because it keeps coming up. There are good landlords and bad landlords, good doctors and bad doctors and good lawmakers and bad lawmakers. There are no more bad ones within our industry than in any other profession or walk of life. The difficulty is that in trying to legislate against the bad ones, you also diminish the good ones. As the good ones are diminished, the bad ones rise to take their place. Mary's problem is very acute.

It is very difficult to police that kind of thing. Some sort of regulation is needed. You cannot rely on goodwill entirely, but if that regulation becomes so stifling that the individual says, "I am not going to risk further capital in this industry," then you have lost part of that industry. Once you have lost part of the industry, believe me, the bad guys will fill the gap instantly. It is those kinds of people Mary has difficulty with and it is those kinds of regulations we have difficulty with. We do not condone support of them or in any way wish to try to glaze over the fact that those problems exist.

I believe I am a good landlord, but as soon as somebody tells me I have to commit capital to something that I do not think I should be committing capital to--I will give you some specific examples. If I want to change the rugs in the hall, I am going to change the rugs in the hall. If it costs me \$100,000, I am going to pass that on to the tenants. It is as simple as that. I do not want a tenant telling me, "Do not change the rugs because it is going to add \$5 to my rent." You either do it or let the building start to deteriorate. Manulife will become chronically depressed as long as rent controls remain in force because it is only a matter of time. You can start out with the Taj Mahal; it will deteriorate over time if you do not have the money to keep it up. It does not show up for a long time, but when it does show up, deterioration becomes severe and then you cannot get it back to standard.

If you ask what is important, the economic package is important. We are willing to live with a lot of the things that are proposed. We are willing to live with rent registry--we do not like it, but we will live with it--with costs no longer borne, with a lot of the provisions the tenants want and the tenants need. They need some of those provisions, because if not, the bad guys will nose them every time. Remember, that is a small segment of the industry. That is where you have to be very careful that you do not lose the good by throwing a net over all of them.

I do not know if that answers your question, Mr. Stevenson.



Mr. Stevenson: I think so, and I believe you have already covered the second part of the question.

To move on to a little different area, in the private housing market this past spring and early summer in the area I represent, we have had almost phenomenal sales of newly constructed homes and resales and movement of people from house to house and area to area. Is there any indication that similar movement has occurred in apartment dwellings?

Mr. Grenier: No. Do you know what? You are witnessing now what is going to be a real dilemma in three to five years. Let me tell you what will happen. You may write it down if you want, and I am willing to come back and hear it repeated to me.

You are going to have enormous numbers of defaults on those new homes. The reason is there is such a lack of rental accommodation that you now have young couples who are out buying their first homes when they should not be buying homes at all; they should be going into rental accommodation. They are borrowing more money than they should. They are scraping and scrimping to buy a house, which is a laudable idea, but what will happen is that within three to five years, as maintenance on the house and taxes start to go up, as they start having children, etc., they will find that the burden of carrying a house when they are 22, 25 and 26 years old will be so acute they will not be able to do it. Then you will have defaults.

You will have exactly the same thing that happened, you will remember, when they had the Canada Mortgage and Housing Corp. low rental buyout program five or six years ago. Thousands of those units came back on the market as defaulted mortgages. You will see the same thing again. The reason the housing market is so hot is that people do not have any place to go. The alternatives are to buy a house or rent an apartment. If you cannot rent an apartment, you are almost forced into buying a house.

Mr. Callahan: Equally, the prices go up with the demand.

Mr. Grenier: Absolutely. You will see it within three to five years. It will be tragic.

Mr. Stevenson: As the few new apartments or condominiums that do come on the market become available, is any record kept of how many people move into the new buildings from homes and private houses and how many move in from other apartment buildings?

Mr. Grenier: There is not a record as such. In my own experience, we built a building of 335 condominiums; we sold them all in eight days. A third of those units were bought by people who intend to rent them out. They were not bought as live-in accommodation for themselves. People were going to rent them out. What you will see is a market in condominiums, and the condominium market is high. Again, it is a skewing of the system. You have the problem now where those people who can afford to buy a condo and keep it as a secondary dwelling place and rent it out are doing so. That should not happen; that is bad for the industry. People who buy condos should live in them; they should not be flipping them over. It is the direct result of the fact that you have no building of rental accommodation. If you had new buildings for rental, you would not be able to rent them out at the prices.

Mr. Stevenson: What I am trying to get at is the new multiple-dwelling construction, whatever it may be. Is there any indication of

a significant trickle-down effect occurring as a result of what new construction there is?

Mr. Grenier: There used to be; there is not now. There is so little straight rental accommodation being built. We used to have a fair bit of movement among buildings in our own organization. We would have people who were moving from one end of town and taking a job, say, in Brampton, and they would request accommodation in that area if we had any. They liked our buildings and would say, "We would like to move into another one of your buildings." That used to happen, but now we are full all the time, so we cannot accommodate them. They wind up either renting a condo or attempting to buy a house.

The trickle-down effect will operate if there is more rental accommodation being built, but the condo accommodation is very tough to trickle to because condos are necessarily more expensive than base rental.

Condominiums have plumbing in them, for example, for washers and dryers and you do not put that in rental accommodation. They have different standards of refrigerators, stoves and flooring, etc., because they are designed to be and are supposed to be somebody's permanent home. Therefore, you have a higher standard and a higher cost. You have people moving into a condo at \$900 a month when they should be in a rental apartment at \$750. You have that trickle effect but it is a tough effect for those people. It is good for the builders, by the way, but tough for those people and that is not right. It should not operate that way.

11:40 a.m.

Mr. Stevenson: Would you care to make any comments on that?

Ms. Hogan: As I said, I am not sure about the trickle-down effects here but something Mr. Grenier said caught my attention and it is something we have been trying to hammer away at for a while with landlords. When he talked about different standards with regard to condominiums because these are designed to be people's permanent homes, I think it is about time we all recognized that for a very large number of people apartments are, in fact, their permanent homes. I do not like the sense that there are different standards for condos or private homes as opposed to apartments. Again, going back to things such as the maintenance board, that is why we were hammering away at some of those things, because for a lot of people renting is the norm and will be for their whole life. It is not going to change.

Mr. Grenier: If I might interject, I would like to point out that we build luxury rental as well. Luxury rental is \$2,100 a month and we put exactly those kind of things in there. They do not turn out to be permanent at all. People who live in permanent rental accommodation do so because they have to, not because they want to. The idea of rental accommodation is generally viewed by most of the population as an interim step to a more permanent one such as a condo or a home. Those people who wind up renting for ever generally do not do it by choice. I grant you there are some, but generally speaking people do not rent by choice.

Mr. Chairman: Mr. Stevenson, do you have much more? There is quite a list of people waiting.

Mr. Stevenson: I will try to be brief. How much of your current deliberations is directed to setting up regulations for what is already in the

bill and how much is directed towards trying to solve problems that may not be currently answered in the bill? Is the bill sufficiently broad that most of your discussion is really trying to solidify or put into some statement in regulation what has already been included here?

Ms. Hogan: There is a fair bit of time being spent now on devising regulations. There is a regulations subcommittee of RRAC. We also continue to look at some of the larger problems as well.

Mr. Stevenson: Let us say you come up with a solution for a problem that is to a considerable extent outside of what is in the bill. Do you view that coming forward from your committee or some similar committee as an amendment to the bill at some future point? How do you hope to address that?

Ms. Hogan: We are all pretty cognizant of the time line. We recognize there has been enough uncertainty and we have to get this thing passed. Any amendments to the bill would be coming forth in the next few weeks and would be part of the government package. That is our time line.

Mr. Stevenson: I have one last question. We had some comments yesterday, some "what if" questions; one being, what if the bill is passed in a form relatively similar to what exists today with very few amendments, such as the 100 the government is going to bring forward? What if, within a year or two, new construction does not develop for whatever reason, just general economic problems well outside the scope of this? What if new construction does not happen? Is it going to take that straight-line relationship? Will it move to three and three quarters per cent as a slope, or what will happen?

Mr. Grenier: Let me wax philosophical for a moment. If it does not happen it will be because the bill was not good enough. We do not know whether it is good enough, but we believe it is. You have to understand that with the economics of the thing at the moment, as in any economy, their forecasts are just that: their forecasts.

As I see it, if the bill passed with the amendments--and, by the way, we recommended most of these 100 amendments--I would be persuaded to build. I would be persuaded to build if I had reasonable assurance, when the bill finally emerged, that some government six months later was not going to change it again, but I do not know that.

We have to see what it looks like when it comes out and try to get a feeling for what the government will do and how committed all three parties are. If there is to be some change I ought to be afraid of, I will not build, neither will my colleagues. If we get the sense that there is, then there is the reasonable possibility.

Mr. Stevenson: Before Ms. Hogan gives her side of the story, if Bill 51 passes--and let us say we are likely to have an election in this province within the next 18 months--is there likely to be any housing starts ahead of that election until the industry sees what tampering there may be in election promises prior to that election?

Mr. Grenier: That is a tough call.

Mr. Haggerty: That is a political question.

Mr. Grenier: Yes, that is a tough call. Through the efforts of the Rent Review Advisory Committee and the amount of work the government and this



committee has done on the bill, and the eventual bill, I hope there is an understanding by the public that the best that could be brought forward has been brought forward. Any politician who starts to fool with it afterwards does so at his peril. I would hope that is what would happen. I would hope the public would throw the rascals out if they took an industry that was on its knees and about to be revitalized in some fashion and then somebody started to tamper with it yet again. We have had 10 years of this. Let us not point fingers again because it does not do any good. Let us just say we have had 10 years of decline at a rapidly increasing rate.

If you come up with something from this committee, it will not be perfect. What Mary, our colleagues and I came up with is not perfect but it is a plateau. We can start from that and get the confidence within the industry. We want to gain the confidence of the tenants as well, because they are suspicious; they think they are going to get hosed again. I understand their suspicions, but somebody has to do some leading and it has to be the politicians. We need some statesmen. We need somebody who is looking at the next generation, not at the next election.

Again, if we are worried about the next election, there will not be any building, that is for sure. We have to hear the leaders of the three parties say, "We do not intend to mess with this except to improve it with a view to getting more building." That is not a political statement, just a statement of fact.

Mr. Stevenson: What happens if it does not work?

Ms. Hogan: If it does not work, given the content of Bill 51, I am afraid tenants will say you cannot look to the private sector to produce the sort of housing we need. You have to look to government or other programs, what I call the third sector: co-ops, nonprofits, that sort of thing.

As I said earlier in my presentation, as far as I am concerned this is a trial period. We have eased the financial constraints and are saying, "Okay, guys, let us do it now." If they cannot, then it is sad; but we then have to agree with what some tenants and other people have been saying all along, that you cannot look to the private sector, you have to look to a third sector, the government or whatever. That is the situation we are in.

11:50 a.m.

Mr. Reville: I am going to abandon my usual rhetorical flourishes because we have already had enough of them, except to say that the RRAC has indeed done a very major piece of work. I am going to rush immediately into peril and say I disagree with almost all the work you have done. My only interest, Mr. Grenier, is in improving this bill.

I want to be very specific, however, in terms of chronically depressed rents. You both indicated some displeasure with what you have been able to come up with. Subsequent to your recommendations, the government has indicated it has made some changes in what you recommended in section 88 and the following sections.

Mr. Grenier, do you think that what is in the bill in terms of chronically depressed rents will do what you think should be done to help the landlords who have a building of that description?

Mr. Grenier: No, I do not think so. It pays lipservice to the

problem, but I do not believe it is going to do the job. It probably requires a different threshold.

It would be nice to have a specific. It would be nice to have an actual example and apply actual numbers to it. The difficulty is in the measurement. "Chronically depressed," by itself, is a difficult term to define. One of the definitions we have seen used is "20 per cent below the other buildings." As soon as you raise that one to 20 per cent it is no longer chronically depressed, but it makes another one chronically depressed. It is a very difficult measurement. I do not know whether the bill will help the chronically depressed a great deal.

Mr. Reville: May I ask you the same question, Ms. Hogan? Will the thresholds and the capping that are built in satisfy you that the tenants in those buildings will be protected and be able to afford the rents?

Ms. Hogan: No, not entirely, because there is nothing in the bill that deals with easing the affordability problems. As I said earlier, that is a particularly key factor for us.

Mr. Reville: Has the government indicated to either of you that it is prepared to bring in companion legislation that will deal with this problem?

Ms. Hogan: I cannot tell you the government has indicated companion legislation. It has indicated it would be prepared to do something to ensure people's affordability problems were not worsened, but in fairness, that is about as far as we have got in terms of any commitment. Obviously, that has to be tightened up.

Mr. Reville: The government has not shared that with us yet.

Mr. Grenier: Mr. Reville, can I add something to that?

Mr. Reville: Yes.

Mr. Grenier: One of the things the government did do, which was agreed to by everybody and which we asked for, was to get this bill through to see how it works. If it does not do what it is supposed to do and does not work--if the chronically depressed are not looked after--the government would be prepared to have us come back, make additional recommendations and bring forward other amendments six months or a year from now. It is going to have to be a trial-and-error sort of thing. If the legislation does not work right away, then the government will come back and fix it.

Mr. Reville: The government has indicated there are some studies of this matter available. It has said it will provide such studies, but we have not yet seen them.

I would like to see how you will react to this. Given that neither of you think the solution to the chronically depressed rent situation is found in the bill and given the particular problems in this case, how would both of you react to the committee recommending to the government that any building that under the definition falls within the category be offered to the government as social housing? In other words, if it is not going to work as private sector investment, let us make it into social housing, buy the owners out and ensure through the policy that people can afford to live there.

Ms. Hogan: That may well be an alternative. Off the top, my only

question would be that I would not want to see any existing tenants displaced. If you are looking at social housing--

Mr. Reville: That could be built in, though.

Ms. Hogan: Yes. That is an alternative that is worth looking at.

Mr. Grenier: I can give you lots of reaction, but I am not sure that any of it would be that helpful to you; you would wind up with the government being the largest slum landlord in North America.

Mr. Reville: It already is.

Mr. Grenier: No, I do not think so. We have been the best-housed people in the world for a long time. First, I do not think you could afford it. I do not think you have the bucks, and I do not say that flippantly.

Mr. Reville: That begs a question, though. How many units do you think are involved here?

Mr. Grenier: That is the difficulty. If we started doing the analysis, to do so we have to put in the criteria. Putting in the criteria was something we had to wrestle with. You could wind up taking the ridiculous all the way to the extreme and wind up with the government owning every building in Ontario.

Mr. Reville: Some of us do not think that is as ridiculous as some others of us.

Mr. Grenier: Obviously. Fortunately, there are more of us than you who think that way.

Mr. Reville: You cannot argue with that, can you? Of which jurisdiction are you speaking? Never mind, I will not get into that.

Mr. Grenier: As a landlord.

Mr. Reville: In view of your responses, would your committee be prepared to recommend to the government that it delete this section for the time being and bring it forward when we have had a chance to sort it out? I mean the references to chronically depressed rent. I know that would be a hardship to the landlords who currently hold such buildings, if such exist, and I think there is some evidence that is so. Given that the solution is not going to work for either party, would you suggest that the minister pull the sections in respect of chronically depressed rents and perhaps require him to give you a time line on when the problem would be solved?

Ms. Hogan: It is probably fair to say that we would have some difficulty coming to an agreement. Because the two sides of the committee are split on this issue, it would be difficult to get a consensus.

Mr. Reville: As the two major groups, you are asking us to legislate something you say is imperfect. We are trying to take leadership here, you know.

Ms. Hogan: Essentially, what is in the bill has been made clear with the government's recommendation.



Mr. Reville: No, by solving it.

Ms. Hogan: They are not the committee's recommendations. I want to make that clear.

Mr. Grenier: That particular area was the government's recommendation. I would rather live for the short period with the imperfect provisions that are there, because I am quite convinced that if we come back to the government, whichever it may be, and say, "This area is not working; it needs some fixing," any sensible government that sees Bill 51 moving forward and evolving into something that tends to go towards the perfect, if it is not there yet, will take that opportunity to fix it.

We have to start somewhere. We need a plateau, a jumping-off spot to get started. As imperfect as it is, I would be prepared to gamble on it rather than have it--

Mr. Reville: How would you feel about this committee inserting a subsection in respect of chronically depressed rents that would commit the government to protecting the tenants in situ from increases they cannot afford and that the money would come out of the public purse rather than the landlords?

Mr. Grenier: I would agree with that. I would not have any difficulty there.

Ms. Hogan: So would the tenants.

Mr. Grenier: And the tenants would agree too, my colleague on the left tells me. We may have a solution already.

Mr. Pierce: Where did you say the money would come from?

Mr. Grenier: It would not be that large, Mr. Pierce.

Mr. Jackson: We are doing it now X times.

Mr. Grenier: That is right. It would not be that large.

Mr. Stevenson: How close are you to agreement on how it might be done?

Ms. Hogan: One of the problems is this whole--

Mr. Reville: I seem to have lost the floor, Mr. Chairman.

Mr. Stevenson: I am sorry; I will withdraw my question.

Mr. Chairman: When you are finished with the chronically depressed section of your questions, Mr. Jackson or Mr. Stevenson, one of them, has a supplementary.

12 noon

Mr. Reville: I think we are getting somewhere on chronically depressed, so I welcome anybody leaping in on this.

I think I hear you saying that it does not upset you if a section that

deals with the affordability problem for a tenant in this situation is added to this bill to commit the government to doing whatever, and we will have to work out whatever.

Some of us have different views about the value of rent supplements and our concern that the landlord not make a windfall profit only because of the rent supplement. Some detail may have to be worked out to prevent that, but if the objective is to make sure the landlord can make out and the tenants can make out, it seems to me that type of a section might be necessary.

Mr. Grenier: That is certainly a laudable objection, and I could not disagree with that.

Mr. Reville: All right. I will let members ask supplementary questions on that.

Mr. Jackson: Staying completely on this issue of chronically depressed rents, it is hard for me to absorb all your comments unless I get a fundamental understanding of your concern about the fact that you, your interest representatives and Ms. Hogan were unconvinced that these types of landlord situations exist. Was it a case that you were not given any evidence by the other issue representatives or that you were not convinced from the data they presented to you? I would like to clear that up, and I am surprised that it may still be unknown.

Ms. Hogan: Some studies were done. I have not seen the final results of them. Part of the problem in terms of any studies being done is which comes first, the chicken or the egg? You are deciding what your thresholds are, and that has an impact on how many units you are looking at and whatever. It is fair to say that the tenants cannot disagree with assisting those landlords who are legitimately hurting. We want to ensure that we are targeting those who are legitimately hurting, that we are not necessarily rewarding bad business decisions.

Mr. Jackson: I am sorry, Ms. Hogan; I am not getting into your motive or your intent. I am merely trying to understand this whole notion. I mean, here you have been sitting for what--six months? It is longer than that. Is it eight months?

Ms. Hogan: Yes. About eight months.

Mr. Jackson: For about eight months you have been sitting, and yet you come before this committee of the Legislature and advise us that you either were not given data or were not reasonably satisfied with the arguments presented that chronically depressed situations are occurring in Ontario.

I would like to stay on that point and determine the mindset of the committee, because I believe it sits at the underpinnings of your recommendations or, more important, the types of questions Mr. Reville is pursuing. It would be a lot easier for me to understand where we are going with this if you could help me with that.

I will ask you again. Were Mr. Grenier and his interest representatives unable to convince you or were they unable to provide data? Were they unwilling to provide data? It seems to be a very major point. In a sense, the two of you have come here, have joined hands and have advocated the final conclusion to this body and, as such, I would like to understand why that process separated or why that process broke down, or whether it was given a college try.

Mr. Grenier: Could I confer with Mary for just one second?

Mr. Jackson: This is proof that the process works.

Mr. Pierce: This is consultation, not dialogue.

Ms. Hogan: First, I want to dispel any sense there may be that anyone was unwilling to produce data or evidence. That is simply not the case. There was a study done by the ministry officials on chronically depressed rents, which we have not seen; I have not seen a final report. It was commissioned through York University, and I gather there were some problems there.

As I said earlier, another problem is how you define thresholds. Part of our problem has been getting to that point, because we still have disagreements about what those thresholds ought to be. That very much affects the result, because one of our concerns is, for example, how many units we are looking at, how badly off they are and what the ultimate affordability problems are. Of course, these results are influenced by the questions you ask. We had difficulty sorting out what questions we wanted asked in agreement.

Mr. Jackson: Ms. Hogan, perhaps I can ask the question directly to Mr. Grenier. Were you unable to present a specific case or cases to the Rent Review Advisory Committee that would illustrate the point which you agreed you were trying to make in your deliberations?

Mr. Grenier: No. We did produce examples.

Mr. Jackson: Specific examples of buildings with specific owners times the number of units, etc.?

Mr. Grenier: Yes. The York University study done by the staff was not done by the landlords, because any study done by the landlords would obviously be suspect. We did want to bring that element into the deliberations. We had an independent body do the study and ministerial staff gave us some examples of it.

Let me tell you what the difficulty is in arriving at a conclusion about what is chronically depressed.

Mr. Jackson: I understand that process quite clearly because of my occupational background. I want to understand the committee's working framework.

Can I ask the minister a question, Mr. Chairman? What is the status of the York University report? When will it be made available to committee members?

Hon. Mr. Curling: Were you addressing the question to me?

Mr. Jackson: Yes.

Hon. Mr. Curling: As a matter of fact, my staff will be able to tell you more. I know that the first draft is available and the second draft is not yet available. I cannot tell you specifically the day it will be available.

Mr. Chairman: Mr. Church, I think can perhaps--



Mr. Church: Bear with me a few seconds.

Mr. Chairman: While there is the consultation here, can I raise a matter with members of the committee? We will take just a short interlude here. The committee was not scheduled to sit this afternoon, but we have a couple of problems. Mr. Grenier and Ms. Hogan are not here this afternoon.

Mr. Grenier: I have to be away by 1:30 p.m.

Mr. Chairman: We were hoping to adjourn at 12:30 p.m. We did not finish the Ministry of Housing presentation, and on Monday the public hearing process starts. Can enough committee members be here at 2 p.m. to hear the Ministry of Housing presentation? I know that some plans have already been made not to be here this afternoon. I understand the problem this causes.

Mr. Jackson: Willing and able or willing or able?

Mr. Chairman: Yes.

Mr. Reville: We are all willing.

Mr. Davis: I wonder whether I could ask another question that may come into the discussion along with this.

Mr. Chairman: Yes.

Mr. Davis: I am sure I speak for my colleagues. We will have representatives here for this afternoon. We still would like to address a number of questions to the representatives of RRAC. Is there some opportunity? I know they have commitments today. Can they come back tomorrow morning or is there some time we can have them back? A number of the questions that I have will impact on the kinds of questions we are going to ask the tenants who are coming before us. We have a tenant spokesman who had input into some of the kinds of issues that are coming out of that bill and we have the minister here. We would like to hear what he has to say on some of the questions.

Mr. Chairman: It has been running through my head as well that after the public hearing process, which lasts about a month, and before we go into the really intense clause-by-clause debate, we might see whether we could have Mr. Grenier and Ms. Hogan back. That would be towards the end of September.

Mr. Stevenson: Can we sit until say 1 p.m. or 1:30 p.m. and then break till 2:30 p.m and come back?

Mr. Chairman: That is fine by me.

Mr. Grenier: I would appreciate it if you could. Unfortunately, I do have to go at 1:30 p.m.

Mr. Chairman: Is it the wish of the committee then to sit until one o'clock and then break and come back at 2 p.m or 2:30 p.m.? We will decide that at one.

Mr. Pierce: In conferring with my other caucus members, we certainly would want Mr. Grenier, Ms. Hogan and members of RRAC to come back some time in September prior to clause-by-clause discussion, even if we decide to sit until one or 1:30 p.m. today. The line of questions that has come up from

members of the committee here today indicates there is strong recognition for the work the committee has done. To understand the bill better, we have to have these kinds of answers or else we will be wandering away in the dark with no recognition for the work of the committee.

12:10 p.m.

Mr. Chairman: Let us sit until 1 p.m. and then come back at 2 p.m. or 2:30 p.m.--we will see--for the presentation by the Ministry of Housing, so that it will be behind us before we head into the two or three public hearings on Monday. Is that agreed?

Hon. Mr. Curling: Do you want to finish? I will respond to the question.

Mr. Chairman: Anything else on the timing? All right. Where were we? You were going to respond to a question from Mr. Jackson.

Hon. Mr. Curling: Before that, may I say that Ms. Hogan and Mr. Grenier have indicated that the members of RRAC will be around and questions can be answered by RRAC during the presentations. They are not here; they are members who are versed in sectors of the report.

In response to Mr. Jackson's question with regard to when the report will be available, I gather that more data are being analysed. The final report will be available within two weeks.

Mr. Jackson: Staying on the point, I have two very short supplementaries on this.

Mr. Grenier, I got a clear sense when you referred to the 15 per cent solution that you hoped that we would--your exact words were "appropriate scrutiny." Are you looking to this committee or the government to help find during the process of the public hearings a recommendation or formula so that the government can provide this leadership? Can I have a short answer from both of you? Do you concur with that?

Mr. Grenier: I concur because I said it.

Ms. Hogan: At the same time that these committee hearings will be going on, we will also still be wrestling with some of these problems, so perhaps we will be able to assist you with some possible recommendations.

Mr. Jackson: On the issue of chronically depressed rents, do you not agree that the decision to have, in a sense, no report in this area, or no solid recommendation in this area, has the net effect of not ratchetting down the number of available, affordable, low-income units? In other words, a solution acceptable to the landlord groups would, by definition, have involved increased justice in compensation, that is, there would be an increase in the rents. To put it another way, do you not agree that by not dealing with repairing the chronically depressed issue, the net effect is not to displace tenants, not to increase the rents in the low and affordable buildings?

Ms. Hogan: Yes.

Mr. Grenier: That would cause a side effect.

Mr. Jackson: I understand all the ripples on the side. I want to understand the extent to which RRAC may be helpful to this committee, to which RRAC will be able to join with us in finding a solution. I am trying to determine the degree to which RRAC, this committee and, ultimately, the government are committed to finding that.

My question to the minister is on this point. Does the minister agree that since RRAC cannot determine a solution, the committee should be helpful in determining the solution on the chronically depressed rents? Should the three-party committee make recommendations and legislation, or will you as the minister be taking the initiative? Can you share with us areas in which you are looking to resolving the chronically depressed rents and, therefore, in reverse, the question of low-income, affordable housing?

Hon. Mr. Curling: Consistent with my approach to things, I welcome all the time that the RRAC report assists us in coming up with recommendations. One of the things we have learned today is to tell you how difficult the task is and that RRAC does not come with any final report or say that it is a perfect thing. I welcome their assistance in that direction.

I think too that with some of the data which will be available and some of the presentations which will be made, we will be in a better position to make some recommendations, amendments or suggestions in that regard.

Mr. Jackson: I will ask it another way then. Are you seriously considering the recommendation of the 3,000 low-end affordable units per year to find relief? Is that a solution, in your view, a position your ministry is prepared to pursue?

We do not want the major focus of this bill to be the area of chronically depressed rents if you are actively considering a solution in that area. I am asking you whether the recommendation is being taken seriously or is under advisement. If it is being taken seriously, to what extent can we incorporate that into our work in perfecting this bill?

Hon. Mr. Curling: I am glad you raised that point, because we have at times attempted to look at this bill as a supply bill, ignoring in the meantime, the fact that there is a tremendous amount of activity out there in the matter of supplies. We are doing many things in regard to the supply end.

Specific to the 3,000 recommendation, we have considered and acted on it. In two or three years, we will be adding 1,500 units to the 6,700 nonprofit units we are committed to.

Mr. Jackson: That, I understand, came out of the document of affordable housing. Is the specific recommendation referred to by Ms. Hogan being considered?

Hon. Mr. Curling: The 6,700 units do not come out. The 3,000 additional units I now speak of came out of the Rent Review Advisory Committee recommendations. We have acted on it and committed ourselves to building additional units over and above the 6,700 units.

Mr. Jackson: My final supplementary, Mr. Chairman, which will please you no end, is to Ms. Hogan. Why would you have made the clear statement, unless this is news to you, that the 3,000 low-end units could be as late as 1991? Is the information you have just received from the minister new, or do you find difficulty with it?



Ms. Hogan: When we met earlier with the minister, there was some indication that the budget for these additional 3,000 units would not be there until much later on. I am now hearing 1,500 units sooner. That is news to me. Earlier, we had indications that the money would not be there until later on.

Mr. Jackson: I would like to make a request of the chair to get, if we could, a clear indication from the ministry, in terms of a short report, as to the fast tracking of those units.

It would be helpful to all members of the committee if the minister's current public commitments and those that have been authorized by the Treasurer (Mr. Nixon) were made known. If he wishes to get into anything future, that is fine, but I believe it is germane to the activities of this committee, especially in light of the questions raised by Mr. Reville.

I would like to know the types of units involved, the programs under which they would be stimulated and the years in which they would be coming on stream.

Mr. Chairman: Perhaps we could ask the ministry to table something in writing with the committee.

Hon. Mr. Curling: I agree with that and I believe the ministry staff will be able to give you those details.

This year we not only approved 6,700 units in February, but 6,700 nonprofit units any day now, plus 5,000 under Renterprise. This is not a sales pitch. I am not talking about the capacity of the industry to take that up. We are taking that into consideration while there is a need, as Mr. Grenier and Ms. Hogan have indicated; while there is a need, there is the thought of how we can deal with capacity as we put more on.

Mr. Chairman: I just want to caution the committee members that Mr. Grenier and Ms. Hogan are here today only; the minister will be here often. Let us deal with the Rent Review Advisory Committee. Mr. Reville, you were continuing with your questions. There is one more supplementary. You can let that come in later or you can proceed now.

Mr. Stevenson: Judging from the frowns of other members of the committee, I will pass.

12:20 p.m.

Mr. Reville: Because the issue was raised, the minister did announce 13,000 units, which appeared to be over and above previous commitments by the government. When I figured it out, it was 1,914 extra units a year, not 3,000. Maybe the minister's staff will confirm or deny that at some future time.

I also want to point out that I do not believe this bill will build one unit of housing. I do not believe anyone should say that. It is not a supply bill; it is a consumer protection bill. It may or may not have some impact on whether people want to build. Mr. Grenier will nod and confirm that this is correct; so I believe the supply question is incidental.

Mr. Grenier: I was not nodding in tacit agreement; I was nodding at the pace of your question.

If I may, Mr. Reville, it is certainly a consumer protection bill, but we have to start somewhere, as we said before. You have to bring some confidence back into the industry. The first step on the way to Rome starts right now. If we do not get something going fairly soon, we will not get there at all. It is not everything we want, but it is a step in the right direction.

Mr. Reville: Thank you.

To get back to specific questions, we have had some discussion about the equalization provisions in the bill. The five per cent cap on equalization increases could, when coupled with other increases that might be allowed by rent review, lead to significant increases for tenants. I can imagine, for instance, a situation in which a landlord was proving economic loss.

There is one possible way to deal with that, given that it is in the interests of landlords to equalize. How do both of you respond to the notion that a landlord not be allowed to equalize if he or she is also requesting relief from economic loss? My intention is obvious. I am trying to cushion the impact of multiple increases.

Mr. Grenier I have no problem.

Ms. Hogan: I do not believe either of us has a problem with that.

Mr. Reville: Neither of you has a problem with that?

Mr. Grenier: We do not have a problem with it as you have phrased it.

Mr. Reville: Thank you.

The Acting Chairman (Mr. Knight): Is that it for now, Mr. Reville?

Mr. Reville: Oh, no. I am getting to the most important item, actually, one we have not touched on at all today. It has to do with the guidelines, the residential complex cost index and the building operating cost index.

We did not have any trouble getting the information from staff about how you got to BOCI. We assumed that the weighting and the inflationary factors attached to each item of expenditure were more or less correct. Under repeated and vicious questioning from the committee, however, I do not believe the staff was able to answer why there was a two-thirds percentage increase on one hand and plus two per cent on the other.

I tried to get answers to the two-thirds part of it, separate from the two per cent, and was unsuccessful. However, I do not believe I got an answer to the two thirds plus two part of it, either. I wonder whether you could take a crack at explaining the elements of the formula. The elements I am interested in are the two-thirds part at one end and the two per cent part at the other.

Mr. Grenier: Mr. Chairman, I would ask that we bring in several of the other Rent Review Advisory Committee members, who have worked specifically in that area. We have one member here, in fact, who is an accountant and has worked in that area. Rather than giving you a half-answer, I would prefer that you got a clear, concise and direct answer from somebody with specific knowledge.

The Acting Chairman: If your colleague would come forward to the table, Mr. Grenier, it would be appreciated.

Mr. Grenier: Gary, would you like to give them a briefing on that?

Mr. Griesdorf: Thank you. I am Gary Griesdorf.

With respect to the two-thirds formula on the one hand and the plus-two formula on the other hand, two thirds, as was probably explained by Mr. Lavery before, had to do with the approximate building costs in relation to the revenue that is currently being experienced in buildings, as evidenced by those brought before rent review during the past 10 years. By going to a two-thirds formula, it was generally felt that such expenses would be maintaining the same proportion to the revenue in the future.

As you can appreciate, some buildings may be experiencing higher than two thirds and some buildings may be experiencing lower than two thirds, so it was felt that two thirds was a generally fair formula in relation to the building operating costs.

Mr. Reville: I wonder whether I could stop you there, Mr. Griesdorf. We were not given that information, so I am very thankful that you have done that. That is obviously based on real-life experience somewhere.

Mr. Griesdorf: We are now relating the formula to what the apartment rents are with respect to building costs, excluding mortgage debt and any possible return of equity that may have been there in 1975 when the system came into effect.

Mr. Reville: So you have chosen two thirds as being an appropriate reflection of the actual building cost in relation to revenues, based on evidence of real-life buildings.

Mr. Griesdorf: That is correct.

Mr. Reville: Can you make the information from which you have derived this conclusion available to the committee?

Mr. Griesdorf: These came from studies presented by the Ministry of Housing and documented by backup representations to the Residential Tenancy Commission over the past eight or nine years.

Mr. Reville: The ministry could provide that. It has that.

Mr. Griesdorf: That is correct.

Mr. Reville: Would you do that?

Mr. Church: Yes.

Mr. Griesdorf: We are moving to a new system where we are not documenting the details of these expenses on a cost-revenue statement, but we are going to a formula. We have to recognize the practicality of protection to maintain the building. The tenants have been very concerned that the buildings be maintained and be brought up to a minimum standard should they have fallen below that standard in the past.

As it would be with the planning of your own personal budget, if you were to receive--



Mr. Reville: I hope you do not mean me in particular, because that would be a desperate situation.

Mr. Griesdorf: If you were to receive \$100 in income and if you were to spend \$100 in expenses, then you would have nothing left over in case a storm came along and broke windows or caused an unusual circumstance that you could not budget for. Landlords are constantly faced with having to hold a few dollars back to be able to meet that eventuality. This is also in keeping with the request by the tenants that the buildings not only be maintained but also be improved to that higher standard we are talking about. It is that protection that accounts for approximately one of those two points above the two thirds of the building operating cost index formula.

Mr. Reville: That is the rainy-day money.

Mr. Griesdorf: That is the rainy-day money plus inclusion in there of what we call an incentive for the landlords to want to stay in this business. Without that protection, if there is an increase of your operating costs of, let us say, \$15 and you have exact expenses of \$15, then there is nothing left there for the landlord to stay in the business. He is operating only on behalf of the residents with no feeling that he will ever be making any type of return. The tenants recognized this and indicated to us in discussions that they wanted the landlords to remain in the business, certainly the good landlords, and not have reason to dispose of their buildings.

With respect to the other point in the plus-two formula, there was recognition that there were going to be ongoing capital improvements of a minor nature and that the landlord would not be coming to rent review for reimbursement. These would include items such as replacement of stoves and fridges where the sum was relatively insignificant to the total operating costs in the building. The suggested formula is that landlords be responsible for some of the small capital improvements.

12:30 p.m.

As you can tell by the formulas in the schedule at the back of the bill, when the landlord goes to a rent review administrator and applies for capital improvements, he loses one point off the residential complex cost index formula, the intention being that from this one point off the RCCI formula, capital improvements will be an allowed pass-through expense to the tenants.

As landlords, we recognize that the first point of capital improvements are things we will absorb ourselves. In broad terms, not specifically, the formula of the two-thirds RCCI plus two provides for unusual expenditures, minor capital expenditures for which we would not make application for an increase and an incentive for the landlord to take and maintain an interest in his building both in terms of good tenant relations and the maintenance the tenants and the landlord have thoroughly discussed. That is in broad terms. I hope that answers some of the things somewhat.

Mr. Reville: That is very helpful.

Mr. Griesdorf: Without those incentives, the concern is that if any of those plus-two formulas are depleted, the landlord is forced to make a conscious decision to do even less maintenance, because he has to maintain those extra dollars--in some cases, we found out they were pennies--to allow himself something for a rainy day.

Mr. Reville: I have more on this very matter, because I think it is important. To tenants, the most important parts of the bill are, "How much is my rent going to be next month and what is the condition of my building going to be?" The other stuff is mainly of interest to people who are trying to make a living doing this, as either lawyers at the rent review hearings or as landlords.

I do not object at all to the notion of the formula, but I think there are four areas in which this formula can be questioned. I have already decided that two of the four areas are less questionable than others. The building operating cost index itself probably can be supported by evidence, and we are going to get some that will show that the costs and the weighting factors are probably okay. I am not at all convinced that the two thirds and the two are okay, and I am not much moved by the crossover argument that has been made, which shows what happens in high inflation and low inflation. I think that is cute but it gets no cigar.

Given that my view is that tenants' rents will go up too much under the formula at the inflation level we are now experiencing, I suppose the bottom line is, which end of the formula would you least despise being changed, the two-thirds end or the two end?

Mr. Grenier: Could I reverse the question? What do you want to give up?

Mr. Reville: I am not interested in creating a situation where tenants cannot afford their units. That is the objective.

Mr. Grenier: Nor are we.

Mr. Reville: Given that part of the problem is the vacancy rate, which we have to count on you guys to deal with, I am worried about people who currently rent a unit and may already have difficulty affording the rent. We have some numbers on that. What happens to them if we make this law and the landlord judges the right to start charging the guideline?

Mr. Grenier: You will have to subsidize them.

Mr. Reville: That may be the answer, but we have not heard any indication from the government that is a possibility. If the government will not subsidize people, what is the least amount of money the industry needs before it goes broke and then we have a different kind of problem?

Mr. Grenier: The point we made before is that what we have now is a set of tradeoffs and balances. If you take something from the RCCI/BOCI formula, you have to take it off the other side. If you take off too much from the economic side, then you do not get the supply. We are not saying, "If you do not give us what we want, we will not play ball." We are way past that part. We are up to the point of, "Can we play ball?" Never mind will we; but can we.

I do not believe it will be worth your while to attempt to tamper with the formula. I am not suggesting that you do not have the right or that you must not, etc. I am simply saying, I think after the eight months we spent at it, you will spend equally as long to arrive at the same or a very similar conclusion. I do not think you can tamper with that formula and not expect a reaction.

Mr. Reville: I agree.

Mr. Grenier: The reaction will not be what I am assuming you are trying to achieve. I agree very much with your statement and embrace it wholeheartedly. There will be rent raises and some of those people will not be able to afford them. There is no question that is going to happen.

The reason is that those buildings have fallen far behind where they should be. Since it was the government that created the situation of bringing those buildings behind to where they are now, it is the government that has to help them at this point. It is going to have to come up with some formula, either a rent supplement or direct aid to the individual building, etc. It cannot come from the pockets of the landlord. He is just not going to do it.

Mr. Chairman: Can Mr. Davis have a supplementary on this?

Mr. Reville: Yes, I am nearly finished this routine now.

Having listened to what you have said, if politicians foolishly go ahead and try to fix the formula, what if the two per cent were changed to 1.5? Is that the right end to work on, given that you do not want us to work on this at all, or is the two thirds the right end to work on?

Mr. Grenier: I cannot give you an answer as to what is the right end to work on. It is not that simple. If you said, "We are going to take one half off the two thirds," for us then to turn around and say, "Fine, we will do away with the rent registry," is not the answer. That may have been part of the tradeoff, but not the whole tradeoff.

Mr. Reville: I see the way to work on this.

Mr. Grenier: I know what you want to do, but--

Mr. Reville: One of the dilemmas I have with the way you came up with this package--and I want to be very frank with you; I think you did a good job in putting all these pieces together--is the view of some of us that we should have had a rent registry years ago. Therefore, we are not terribly impressed at this point to see the rent registry and we are not prepared to pay for it with tenant's money, if you follow me. I know you are operating in a different world on that. I have seen you are not going to offer us any points on this because of the way you arrived at your decision.

If the two-thirds BOCI tends to have the effect of covering off increases in operating costs--which I think you believe it does and which I am thinking of halving--it would be wonderful, but if operating costs went down, under these rules you would still get the two per cent, which would then go into this pot, maybe to be used for a rainy day, maybe to be used to go to Miami; that is fine too.

The two per cent stays in your rent for ever and compounds each guideline, so that each year the landlord will get two per cent above his operating increase. The succeeding year the next two per cent goes on the previous two per cent and pretty soon there is a lot in the base. At what point does this create a situation in which the landlord is getting far more than is necessary to cover the increase in operating costs and guarantee a good return on investment?

12:40 p.m.



Mr. Griesdorf: The answer cannot be summed up in one or two sentences. Perhaps this is where we come to a philosophical difference in how you phrased it at the very end. The landlord believes he is not getting a full or fair return on his investment. What is recognized in this formula is that there is provision to get some sort of return through excess, if there is any, of the formula over the actual operating expenses.

As you know, over the past 10 years the rent review system for pre-1976 buildings was to match, dollar for dollar, increase in costs with increase in revenues, and so we get to the discussion of the value of the dollar and we have had inflation over those years. Therefore, a \$10,000 profit earned in 1975 that is still \$10,000 in 1985 does not have the same purchasing value. That is a separate discussion.

To get back to a formula where again the landlord earns only \$10,000 as in 1975 discourages the landlord from staying in the business and at all times, especially the first month of discussions with the tenants, we discussed how we maintain an incentive for good landlords to stay in the business.

Depleting this formula that was carefully matched off with other things will once again discourage landlords from staying in this business. As you note through the press, we are getting to the position where the former Cadillac apartments are about to be purchased. People are looking at this bill and the leadership provided by the government and all three parties as to what will happen for the future of the rental buildings. We hope that whoever buys the buildings, either collectively or individually, will be good landlords and will want to maintain them. We want to set up an atmosphere where good landlords will stay in this business.

When we see formulas and the capital expenditure dropping one point from the residential complex cost index formula, perhaps you are suggesting that if you alter the formula there would not be any drop in the RCCI formula for capital improvements. Maybe this is what you are trying to suggest, that all capital improvements by landlords should be able to pass through without any drop in the RCCI formula. This is the type of concern I think Mary and Bill has tried to advance. You cannot play with just one aspect.

You now have one other aspect. You have mentioned an affordability problem. I do not mean to belabour this point, and I am sure the tenants would like to argue this further. The affordability problem is often misunderstood by the landlords. In our opinion, the affordability problem occurs where a tenant is paying more than a certain percentage of his income on rent.

In some people's minds, the affordability problem means that if a tenant has to pay \$1 more than he is paying now, the tenant will not be able to have that extra \$1, whether for meals, trips, cars or what have you. If you are concerned about the affordability problem with those paying more than 28 or 30 per cent of their income on rent, then maybe we should address that and provide mechanisms whereby those people can be protected.

When we are dealing with people paying 10 per cent of their income on rent, then I would suggest this formula does not hurt them at all. If anything, they perhaps should be having a higher formula. But once the government has seen fit to have a formula for all tenants, then let us consider all tenants, and not just those that have an affordability problem of paying more than 30 per cent of their income on rent. It is not unfair for the vast majority of the people who are renting in Ontario. It can be a problem for those at the bottom end.

Mr. Reville: Why should we ask of the tenants in Ontario that they should pay to current landlords money in the hope that somebody might build, somebody might do a capital improvement on their building or somebody might not get out of the business? Is that not like saying, "I have a bridge to sell you"?

Mr. Grenier: It depends on where the bridge is located. If you want to get across the river, you are either going to buy the bridge or build it. If it is the Brooklyn bridge, you may not need it. In this case it is not the Brooklyn bridge; it is one that you absolutely need.

You are not asking the tenants to pay for it. You are asking the current landlords to pay for it, and they cannot afford it. You have to ask the whole segment of society to pay for it.

Mr. Reville: You are not doing that. You are asking the tenants to pay for it.

Mr. Grenier: Not necessarily.

Mr. Reville: You are saying the landlords are paying for it but now you want to shift the burden to the tenants.

Mr. Grenier: No. I am saying the burden has to be shared. For those people who can afford to pay, they should be paying. For those people who cannot afford to pay, the government should assist them. When you get down to the bottom line, it does not matter who you are asking to pay because you may design a different bill or a better bill. Even with this bill, if it does not work, you are not going to have any building. If you do not have any building, you are going to have not only unaffordable housing but also a problem of supply that will be gargantuan in proportion.

Remember, we are at the end of the tether here; we are not at the beginning. We have had 10 years of this, and it is to the point now where there will be no building, of that I can assure you. Whatever formula you want to come up with, whatever tampering you want to do, we are quite prepared to accept. The difficulty is that if it does not work economically, it does not work regardless of goodwill.

Mr. Reville: This is going to become circular one, and I give it over to someone else.

Mr. Davis: I want to follow along the line Mr. Reville has been following, because I think it is an important aspect of the whole bill. Mr. Grenier, you indicated that rents will rise in the province and that there will be some people--I do not know how many--who will not be able to afford them. Then you stated that the people would have to receive some type of government supplement, a group of people who at present do not receive it. This issue, I assume, was discussed in your committee. Is it the position of the Rent Review Advisory Committee that supplements are the answer?

Mr. Grenier: Not of the committee, no.

Mr. Davis: Whose suggestion is it?

Mr. Grenier: The suggestion that supplements are the answer is ahat of my organization, the rental policy organization. That is a different issue. That is another way of coming at the problem that is not what is being

proposed as part of this bill. If it were, we would have solved what we think are all our problems.

As we said, we do not think the bill is perfect, but it is a start. Our hope is to solve that problem after the bill is in use and we see the actual results, and we will see them quickly. When we see the actual results, both the tenants and the landlords can come back to the government and say: "Here is what we have wrought. Here is what is happening."

Let us assume for the moment that 5,000 people are desperately hurt as a result of this bill. I dare say the government is going to have to come up with the answer: Either help those people or revise the bill, revise the procedure.

12:50 p.m.

Mr. Davis: Two quick questions and I will give the floor over. In the RCCI formula that has been developed, it is my understanding that is to provide for a fair rate of return to landlords, and that comes out of that committee; that is its view. What happens if you do not receive a fair value on your return? What alternatives do you have?

Mr. Grenier: What alternatives do I have as a landlord? I get out of the business.

Mr. Davis: You get out of the business?

Mr. Grenier: Yes.

Mr. Davis: What other alternatives exist? Would you want to revise the formulae?

Mr. Grenier: If the formulae were not working?

Mr. Davis: Yes.

Mr. Grenier: Yes.

Mr. Davis: Was that discussed by RRAC?

Mr. Grenier: It is in part of the bill that we would come back at the end of 1939 and review the thing.

Mr. Davis: When you come back in 1939--and I am really new to this--my understanding is that you would have two alternatives. The first is that you would review the rents to increase them. The only other option I can see--I guess it is a fair option--is that the builders stop building or you remove rent controls.

Mr. Grenier: That is a good alternative. I like that one; the tenants will not.

Interjection.

Mr. Grenier: I hesitate to mention that only because I have been such a proponent of it for so long.

Mr. Davis: Mr. Chairman, I have one question to redirect to the



minister. Since we are to deal with this bill, I believe it is imperative to understand where the minister is coming from. Yesterday, in a situation very similar to the issue raised by Mr. Reville, I inquired what would happen if a constituent phoned and told me the increase in his rent was placing him in financial difficulties. I believe I directed that question to the Assistant Deputy Minister of Housing. No--

Mr. Chairman: The acting deputy minister.

Mr. Davis: The acting deputy minister. I asked him, "What will I tell him?" As I recall, his response to me was that the person should apply for some type of government supplement, understanding that person was not on a supplement.

When Bill 51 is implemented and the renters in this province find themselves paying rents higher than they can afford, Minister, is it the intention of you and your government to make up that difference for those groups of people who are now on subsidy, plus the number of people who will be coming on subsidy because of those rental increases?

Hon. Mr. Curling: That debate has not taken place in my government in that final detail. It is something we can look at to see how many people are affected by it. You hear the argument about the chronically depressed and what tenants it leaves in that position. We should talk about what numbers we are dealing with. I am very confident that the overall rent review bill here will cause less of--I do not want to use the word "affordability"--an increase in rent overall than what we had in the past.

Mr. Davis: If I could explore this for one more moment, please bear with me. Minister, that is not the question I asked you. It is now being stated by your staff and by members of the Rent Review Advisory Committee that there will be tenants in this province who will be paying more rent than they can afford because of the increases. Both a representative of RRAC and a representative of your staff suggested very strongly that the mechanism by which those people can afford the new rents is to be subsidized by the government. The landlords do not want to subsidize them, and if you do not subsidize them, then they have no accommodation, provided Bill 51 is implemented.

Are you telling me that your government and that you, as the Minister of Housing, have not considered how you are going to enable those people to afford those rents, understanding that those two individuals of those two sectors have indicated the only possibility that exists is more government subsidies?

Hon. Mr. Curling: This rent review package would allow for far less of an increase than in the past.

Mr. Reville: Ah. Pardon me.

Hon. Mr. Curling: In response to the "an" from Mr. Reville, all rental units will be under rent review; so we will not have a two-class system. As I said, fewer rents will go up. You are asking whether we are looking at subsidizing those, and I am saying that discussion has not taken place in detail. That is what I can respond to you.

Mr. Davis: I am not satisfied with the minister's answer.

Mr. Chairman: I understand.

Mr. Davis: It seems to me that if a government that is going to introduce this type of package, which is one of the most important pieces of legislation this province is facing, has not discussed that type of implementation, it does not know what it is doing.

Mr. Chairman: Thank you, Mr. Davis, for those pungent comments. Ms. Smith, did you want to cut in on Mr. Callahan's time with a supplementary?

Ms. E. J. Smith: It is just a supplementary to Mr. Reville's conversation with Mr. Grenier.

In describing the formula, you discussed that the two per cent envisioned at least some money for general repairs and maintenance and that this was part of the thinking in the formula. I assume an integral part of that would be the residential rental standards board and that these two would be very closely linked. The tenants would then have some assurance that those moneys were used in that direction, even though it is a somewhat optional decision compared to one that meets minimum health standards, building standards and so on.

I assume that since the document we have before us is a negotiated compromise, the formula incorporates and recognizes this standards board, and this is an integral part of the BOCI-RIOCI formula. Is that correct?

Mr. Griesdorf: Yes, that is correct. When we finally put our signatures to the accord, all those major factors were put together: the maintenance standard board, the register, the types of protection that you were just describing and the two thirds plus two per cent formula. They are all integral parts.

Ms. E. J. Smith: I assume that when you work together on this standards board with that formula in mind, the standards you are going to come up with are going to be somewhat different from minimum health building code standards, since they are part of the formula.

Mr. Griesdorf: That is right. The standards board will be dealing with the building itself rather than with just health and outside property. That is an ongoing discussion within a committee that is using RRAC members as well as some outside industry people.

Mr. Callahan: Mr. Grenier, a lot of the questions I wanted to ask have been asked. What company are you connected with? I should know that but I do not.

Mr. Grenier: Pagebrook.

Mr. Callahan: Pagebrook. Could you perhaps assist me in terms of the other landlord representatives who were on the committee? Was there a broad cross-section of the industry?

Mr. Grenier: Yes, we have three representatives of major builders. we have some people who are assisting in the rent review process now--in other words, they are consultants--and two landlords. I am speaking only to landlords right now.

we have representatives of small landlords, people who own an eightplex, twelveplex, that sort of thing. For the committee to get a full appreciation,

I hasten to add that the bulk of Ontario's rental accommodation is made up of those small landlords; there are very few major landlords who own 500 or 600 units.

The majority of the buildings we are speaking of are owned and operated by what is euphemistically sometimes called the "ma and pa"--somebody who works full-time during the day, comes home at night, cleans the halls, cuts the lawn and does those things necessary to maintain the building. It is that area that makes up the bulk of Ontario's landlords. We have representation on the committee from that sector as well.

Mr. Callahan: I am aware of some who are on there. Bramalea is a very big builder out in my city. I gather as well that during the course of this, even though you had nine landlords of the large and small types on there, you consulted quite broadly with other members of the landlord community, if I can call it that.

Mr. Grenier: Absolutely. As I mentioned at the outset, I am the chairman of the Fair Rental Policy Organization of Ontario, which is made up of a very broad spectrum of other landlords. We generally have committee meetings every two weeks, in which we bring back a lot of the RRAC material and go through it to make sure we are covering those areas having difficulties and that we are not dealing in isolation. It was a living, breathing, ongoing situation with fingers out into the total landlord community. I dare say the same for the tenants, although I do not speak for them. That was the idea.

Mr. Callahan: I was going to ask Ms. Hogan if she agreed that the representation of the tenants on the committee are representative of a cross-section of tenants and if there was communication with other tenant groups over the period it was discussed.

Ms. Hogan: It was representation of tenants and tenant advocates. There was consultation with tenants. In fairness to some tenant groups, they probably would have preferred even more consultation. As we got down to the wire in our negotiations and were spending three or four days locked up together, then obviously the opportunities were not there for constant consultation, but we tried to keep people informed.

Mr. Callahan: So what you bring before us is not just a kind of select club that viewed it.

Mr. Grenier: No.

Mr. Callahan: You have done a lot of the work, I believe, for us as legislators. That makes me feel very confident. I also note you have said on a number of occasions from the landlords' standpoint, as is the question, I suppose, in any market, that certainty is the key issue and the longer this matter is dragged out or changed, the degree of certainty that will exist in order to get the market to start operating will fall.

Mr. Grenier: Yes, that is true.

Mr. Callahan: I would like to commend the committee, as one of my colleagues did, because I think you have managed to do a balancing act on the end of needles. Both of you have come up with a compromise, and I am very happy about that. I notice you have indicated that with the exception of the 15 per cent you are still working on, both of you, from a compromise standpoint, are satisfied with what has taken place.



Mr. Grenier: Yes.

Mr. Callahan: I gather you make that statement, not just from a personal standpoint--

Mr. Grenier: No, not at all.

Mr. Callahan:--but as a result of the broad research into the cross-sections you represent.

Mr. Grenier: Yes. There is no question that there will be other witnesses who will come forward and speak on their own behalf, as landlords and tenants, who will disclaim this process. I do not doubt that for a moment. I know you will also hear stories from both sides at the extreme end. What we attempted to do was get away from that in our deliberations and get right down to solving the problem. I could beat my breast here for two hours and give you horror stories, but you would be fed up with listening to them after two hours. It would not solve anything. We have attempted to make sure we solve the problem.

Mr. Callahan: My major concern in asking those questions was that in the early stages and certainly in the House, some concern was expressed by opposition parties that this did not represent a cross-section, that this was a sort of setup deal. You have indicated that is not the case. At first, the press seemed to indicate that was the case as well. I would like to dispel those thoughts and show that perhaps it is a truly representative situation. That meant we could perhaps look to the future for solving other problems by having citizen participation rather than leaving the legislators to do it on a partisan basis and perhaps screw up the whole system.

Mr. Chairman: Could I remind members that if we are to come back by two o'clock, we should get out of here very quickly. Do you have one quick question?

Mr. Reville: I have been inflamed by Mr. Callahan. I have to ask this question.

Mr. Haggerty: One o'clock has arrived.

Mr. Reville: Ms. Hogan, has any major tenants' association endorsed this bill?

Ms. Hogan: No. it is fair to say no major tenants' association--

Mr. Reville: Thank you.

Ms. Hogan: I would like to elaborate just for a minute.

Mr. Reville: I was just asking a question. Come on. I see courtroom dramas. I know how to do it.

Ms. Hogan: You were asking a question, yes.

Mr. Chairman: Go ahead, Ms. Hogan.

Ms. Hogan: If I could just respond, I was actually trying to respond to Mr. Grenier, because I think you will be hearing from tenants' groups that do have concerns about the bill. You have to view this process for what it

was, a group of landlords and tenants coming together and negotiating, as I said in my brief, a series of compromises. Obviously, there are things about the bill I am not happy about, as Mr. Grenier is not; but in the context of the process, I think we have come up with a bill we feel satisfies both sides. However, in doing the job of representing the various interests, you are going to hear certain criticisms.

We also live in a real world. The bottom line for me, and I think for other tenants on the committee, is that we are not going to get exactly what we want because there is another interest represented here; so we had to make some compromises. I am not going to say it satisfied everybody.

Mr. Callahan: It sounds like most contracts that are arrived at anyway.

Mr. Chairman: Mr. Grenier and Ms. Hogan, thank you very much. The committee appreciates your presence. You have been most helpful and very interesting as well.

The committee recessed at 1:06 p.m.





STANDING COMMITTEE ON RESOURCES DEVELOPMENT  
RESIDENTIAL RENT REGULATION ACT  
THURSDAY, AUGUST 21, 1986  
Afternoon Sitting



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)

VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)

Bernier, L. (Kenora PC)

Cordiano, J. (Downsview L)

Epp, H. A. (Waterloo North L)

Knight, D. S. (Halton-Burlington L)

Pierce, F. J. (Rainy River PC)

Reville, D. (Riverdale NDP)

Smith, E. J. (London South L)

Stevenson, K. K. (Durham-York PC)

Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Davis, W. C. (Scarborough Centre PC) for Mr. Bernier

Haggerty, R. (Erie L) for Mr. Epp

Clerk: Decker, T.

Staff:

Ward, B., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Church, G., Assistant Deputy Minister, Corporate Resources and Building  
Industry Development

Peters, F. H., Director, Rent Review Division

Braund, D., Rent Registrar

Stratford, L. A., Senior Solicitor, Rent Review Division

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, August 21, 1986

The committee resumed at 2:15 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT, 1986  
(continued)

The Acting Chairman (Mr. Knight): Members of the committee, we have a quorum. The chairman realized he had not given enough time to the committee for lunch, so he decided to come back late. As a matter of fact, I see him going past the door. He did ask me if I would get the committee started, in the interests of the ministry officials who are here, and some of the members who have other commitments later in the afternoon.

We are going to finish up with the presentation by the ministry this afternoon. I suspect, Mr. Peters, that you are going to be carrying the ball. You have given the commitment that it will be between five minutes and infinity, with the co-operation of the committee. If you would like to proceed, we can hope to keep it shorter than infinity and closer to five minutes.

Mr. Peters: Mr. Chairman, I wonder whether the committee has questions regarding yesterday's presentation on the rent registry. If there are none, we can proceed to the last two sections of the ministry presentation dealing with the Rent Review Hearings Board and the transition and offence sections of the statute.

The Acting Chairman: Do any members of the committee have questions on the rent registry?

Mr. Haggerty: I have one question. I do not have my notes or the brief that was submitted. However, I noticed the cost of implementing the new bill and the regulations that fall within the registry. There will be additional staff required--134, I believe, or something like that.

What is the total estimated cost involved in this, now that we are moving into a new area? There must be a ball-park figure for additional staff and costs involved.

Mr. Braund: Mr. Haggerty, are you asking about the rent registry itself?

Mr. Haggerty: Everything that comes under it.

Mr. Peters: In terms of the approved 1986-87 estimates, and including all one-time, startup costs, salaries and wages and direct operating costs, the figure is a little over \$13 million. That is not a net increase. The current costs of the Residential Tenancy Commission, for which we can do a split and show the actual--

Mr. Davis: We would like to see the split, Mr. Chairman.

Mr. Braund: I believe we have complied with the committee's request,



if my notes from yesterday are available to members of the committee. I do not know whether they have been distributed yet.

2:20 p.m.

Mr. Chairman: Mr. Davis, excuse me. Are we at part V?

Mr. Davis: Yes. I have a supplementary to Mr. Haggerty's question on staffing. One of my colleagues raised it yesterday and I am trying to clarify it. There are 260 positions in existence in the Residential Tenancy Commission. That is your staff now and you propose an additional 274 positions.

Mr. Braund: I do not believe so. I believe the rent review division under the new legislation, which includes the rent registry, field services, which is the rent review administrator organization which will make the rent review and rent rebate determinations, and the policy group totalled 274. It is anticipated that the hearings board, which will hear appeals from rent review administrators, will be up to 100. You can compare the 374 to the 216 in the Residential Tenancy Commission.

Mr. Davis: The 216 are included in the 374. Is that correct?

Mr. Braund: There is not a direct transfer of commissioners and staff of the RTC.

Mr. Davis: Tell me the number of positions.

Mr. Braund: The functions of the RTC will be included in both the hearings board and the rent review division, since the commission has both levels now, and it will be split under Bill 51.

Mr. Davis: So the 216 are not quite into the 374.

Mr. Braund: Exactly.

Mr. Davis: I know we did not really get an answer yesterday but I would like to pursue something for a minute before we go on. Of the 216 who are currently employed in the Residential Tenancy Commission, how many of those people will not have a job once you begin the proposed staffing for the Ministry of Housing in your rent review office?

Mr. Peters: There are two points. If you look at the breakdown in staffing comparison, the total number you mentioned is 216. Forty-two of those are orders in council and serve at their pleasure. Turning to the management administrative support, the point I was trying to make clear yesterday was that we are faced with the challenge, if indeed that is the correct phrase, of accommodating 174 people against an improved staff complement of 274 for the rent review division.

The point was raised yesterday that, while in some cases there may be a direct transference of a job--for example, the job in the division is the same as the job in the Residential Tenancy Commission now--if that was a bargaining unit position, the collective agreement would apply and there would be a straight assignment, although there are positions that are somewhat different. They have been filled and are currently being filled on a competition basis on a promotional opportunity basis.

As I recall the discussion yesterday, the third point related to what

can be called the sensitivity of the ministry with respect to training people if there is just a minor difference in the job content. That commitment was given yesterday; that we would be prepared and are planning for that training component to take place. If there are positions for which training is required for individuals coming across, that will be done.

Mr. Church: I have one other point to get to the very point Mr. Davis is raising. In the event that some of the staff members of the present commission do not qualify for existing positions, they have all the rights and benefits of civil servants to be given prior consideration for other positions within the public service. In terms of the Ministry of Housing record of placing redundant people, which I think is really what you are getting to, we have had 100 per cent success so far. Everybody has been placed.

In terms of the people who are now public servants in the RTC, it is our hope and expectation that those who are qualified will be employed in the new system and those who are not will be employed elsewhere in the public service.

Mr. Davis: Is it your understanding at this time that none of the individuals who occupy those 216 positions, minus the 42 appointed under order in council, will lose his or her job?

Mr. Church: As the executive branch, obviously we cannot speak to the 42 who are Lieutenant Governor appointments, but for the 174, it is our hope and expectation they will all be placed not only in jobs but in jobs for which they are qualified and which they want.

Mr. Haggerty: To follow up on my original question--and perhaps that of Mr. Davis--you indicated there would be a \$13-million cost involved in policing or overseeing the administration of it. Is there any user fee for services that will be provided through this agency to the persons who want to use it--for example, the landlord or the tenant associations? It seems you are going to have quite a bit of information involved and you may have a run on this. It also could be rather costly.

Mr. Braund: In rent review, there has never been a fee for an application to be made or for an appeal to be filed. One of the ideas that was advanced in the preparation of Bill 78 was that there might be a fee for filing an appeal under the new system. That idea was rejected by the Rent Review Advisory Committee. Therefore, there is no provision in Bill 51 for any fees to be paid except for normal matters such as photocopies and, as I said yesterday, extensive data from the rent registry data base.

Mr. Haggerty: Normally, if you make an appeal to the Ontario Municipal Board there is a chargeback to either party or both parties can share the cost. If you had some frivolous appeal, you might want to weed it out by having a user fee. That might be one of the ways to do it.

Mr. Peters: To respond directly, the provision in the current statute for either a frivolous or vexatious application and/or appeal to be dismissed, I think was retained. Considerable discussion between the landlords and tenants resulted in their conclusion that the provision was sufficient, and it was not fair to have what to some was a financial penalty to seek a rehearing of an application at the Rent Review Hearings Board. Therefore, there is essentially an unfettered right of appeal should the individuals affected by the decision of the rent review administrator so desire. The provision notice is somewhat circumscribed by the right to have that dismissed if it is deemed to be vexatious or frivolous.

Mr. Haggerty: It was also mentioned by the witnesses this morning that one of them had considered bringing in or appointing a maintenance board, which would put an additional cost on the system. Has that been included in the \$13 million or have you not gone to the stage yet of saying this is one of the policy areas that the ministry will be implementing?

Mr. Church: As the members of the RRAC said this morning, they are still continuing to meet on the implementation of the maintenance standards board. If the standards they develop are very similar to existing property standards, as is expected, obviously the amount of additional activity required is very slim because the municipality is already doing that work. It is a new policing process, that is, the board itself that is in place. If they are substantially different, there may be a cost attached and that would be added to the total estimates.

Mr. Chairman: Are there any other questions? Anything else, Mr. Peters, Mr. Braund?

Mr. Peters: Thank you, Mr. Chairman. There are some slides that accompany the presentation. The text, though, is reasonably straightforward. At the committee's wish, we can put up the screen.

Interjection.

Mr. Peters: The slides would be in the hard copy distributed.

Mr. Chairman: Okay. Let us proceed without the screen.

Mr. Peters: This should be Rent Review Hearings Board and appeals. These slides should be the last ones in the package. Rent Review Hearings Board and appeals, and also transition and offences, I believe.

2:30 p.m.

In this section, we will dealing with the appeal process which is followed when a landlord or tenant wishes to appeal the decision reached by a local rent review administrator. To recap a bit of the previous presentation, as we indicated, the landlord and tenant must be informed of a decision reached by the administrator through the administration review process. If they have any questions about the decision, the administrator will be prepared to answer them.

If any party--landlord or tenant--finds the answers or the decision wanting, he or she may appeal the decision within 30 days. To reinforce a point mentioned previously, there is no cost or fee associated with or charged in the filing of an appeal. The actual filing of an appeal is a simple matter. One obtains a form available at one of the 21 local rent review offices and forwards that with any appropriate documentation to the Rent Review Hearings Board. The board will be composed of members appointed by the Lieutenant Governor in Council. Those appointments are not civil servants, although the provision in the statute will be that the vice-chairman and his support staff will be public servants.

When the Rent Review Hearings Board receives a notice of an appeal, all documents filed with the division in support of that appeal will be forwarded to the board. During the appeal process, the issues are limited to those raised in the original application file.



The board may be asked by either party or may decide itself to hold a pre-hearing meeting. The intent of this meeting is to identify clearly the issues involved and to set the stage for the hearing. Of fundamental importance is to decide which parties and units are to be affected by the appeal and to identify and solve as many procedural issues as possible so that the actual appeal process can go forward as quickly as possible.

To pursue the process, the board notifies all concerned parties as to the date and location of the hearings, and the appeal hearings will be held locally. If either party makes a request, the hearing may consist of a three-member panel. The hearing is formal, it is conducted under the Statutory Powers Procedure Act, and the powers of the board are such that it can confirm the original order made by the rent review administrator, vary the order or substitute a new order.

The decision reached by the Rent Review Hearings Board can only be appealed on a point of law to Divisional Court.

In summary, there is an unfettered right of appeal by both the landlord and tenants. There is provision in the statute for a pre-hearing meeting to identify issues and solve some minor procedural problems. There is a right, upon request, to a three-member panel. The appeal is based on issues in the original application and decision and is a formal process conducted under the Statutory Powers Procedure Act.

I would like to pause at this point and ask if members of the committee have any questions. On my immediate left is David Burnside, who is the senior solicitor-designate, I guess, for the Rent Review Hearings Board.

Mr. Chairman: That will certainly intimate members. There will be no questions.

Mr. Peters: That was not my intent, let me assure you.

Mr. Chairman: Are there any questions? I was just guessing.

Mr. Peters: I would like to proceed to a brief elaboration of the enforcement and transition provisions contained in the statute. Dealing first with the question of enforcement, under this legislation it is an offence in Ontario to charge an illegal rent, whether or not there is a rent review order in effect. An illegal rent occurs if the rent is increased more than once every 12 months, if the rent is increased by more than the guideline without prior approval or if the rent is increased by more than the amount ordered by rent review. As well, "other offences under the act" include furnishing false or misleading information, failing to file with the rent registry and the charging or acceptance of key money. The penalties upon conviction are a maximum fine of \$2,000 for an individual and \$25,000 for a corporation.

Moving on to the transition provisions, the Residential Tenancy Commission will continue to operate to clear matters currently in progress. Applications for rent review filed after the date the legislation is proclaimed will proceed under the new system. An application that has been filed through the Residential Tenancy Commission under the old system but has not yet been dealt with will be allowed the option of deciding whether to continue under the old system or have the application processed under the new system. This is an elective provision that either party may exercise.

Finally, once the new system is under way, the Residential Tenancies Act will be repealed.

That concludes my presentation. I apologize if I exceeded my five-minute commitment.

Mr. Reville: Was any thought given to including a penalty if there is let or hindrance to organizing or participating in an association? Section 116 indicates you can organize an association and you may not be prevented from that, but it does not say what happens to anyone who attempts to prevent it.

Mr. Peters: I cannot recall. That has not come up during the discussions of the Rent Review Advisory Committee. I have been advised by the senior solicitor that the matter is covered under the Landlord and Tenant Act, at least to the extent that one cannot be evicted for exercising rights under that statute. As far as I can recollect, there was no discussion of that issue at the Rent Review Advisory Committee.

Mr. Church: I am going to contradict Mr. Peters. I have just checked with Robert Elms from the Rent Review Advisory Committee, and he informs me that in fact the RRAC did discuss the matter in some detail before Fred was involved. It decided the logical place to discuss this was in its upcoming review of the Landlord and Tenant Act.

Mr. Chairman: Does that mean this act does not need to deal with the problem? Would it automatically be dealt with under the Landlord and Tenant Act?

Ms. Stratford: It is not currently an offence under the Landlord and Tenant Act. I think that was the question. It is dealt with in the sense that if a landlord tries to evict a tenant because of involvement with a tenants' association, the landlord will not be granted a writ of possession, but it is not technically an offence to do so.

Mr. Chairman: Anyone else? Is there anything else, Mr. Peters? That is it? C'est tout?

Mr. Peters: C'est tout.

Mr. Chairman: Mr. Church, is there anything you want to add?

Mr. Church: No. Obviously the ministry, under instructions from the minister, remains available and predisposed to provide whatever information and assistance you and the committee wish during consideration of the bill.

Mr. Chairman: I think I speak for the committee in expressing our hope that someone from the ministry will be with the committee when the hearings are being held and when we travel. It is inevitable that there will be questions of a technical nature, perhaps even of a philosophical, if not an ideological, nature that members will be incapable of answering. We would appreciate that.

Mr. Church: We think we have successfully arranged not only that will members of the ministry staff be available at every hearing of the committee but also that there will be at least one--and I hope the appropriate--member from each side of RRAC available for clarification at any time, as we had today.

Mr. Chairman: Is there anything else members want to raise before we adjourn for the day?

Mr. Stevenson: The minister is not going to be around this afternoon at all?

Mr. Chairman: No, this is it.

Mr. Reville: We are adjourning now.

Mr. Chairman: If not, we will reconvene here at 1 p.m., not 2 p.m., because of the hearing process, on Monday afternoon.

Thank you, Mr. Church and the members of your staff, for your attendance here all week. It has been most illuminating. We are adjourned until Monday.

The committee adjourned at 2:42 p.m.





STANDING COMMITTEE ON RESOURCES DEVELOPMENT  
RESIDENTIAL RENT REGULATION ACT  
MONDAY, AUGUST 25, 1986  
Afternoon Sitting



CHAIRMAN: Laughren, F. (Nickel Belt NDP)  
VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)  
Bernier, L. (Kenora PC)  
Cordiano, J. (Downsview L)  
Epp, H. A. (Waterloo North L)  
Knight, D. S. (Halton-Burlington L)  
Pierce, F. J. (Rainy River PC)  
Reville, D. (Riverdale NDP)  
Smith, E. J. (London South L)  
Stevenson, K. R. (Durham-York PC)  
Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Davis, W. C. (Scarborough Centre PC) for Mr. Bernier  
Hart, C. E. (York East L) for Mr. Epp

Clerk: Decker, T.

Clerk pro tem: Forsyth, S.

Staff:

Ward, B., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Curling, Hon. A., Minister

Church, G., Assistant Deputy Minister, Corporate Resources and  
Building Industry Development

Individual Presentations:

Korol, G.

Schwartz, J., Member, Rent Review Advisory Committee; with the  
Multiple Dwelling Standards Association

Tenenbaum, J.

From the Hamilton Apartment Association:

Greidanus, P.

Individual Presentations:

Weisz, A.

Catlin, K.

Schwar, D.

Kattides, C.

From the O'Shanter Development Co.:

Krehm, W., General Manager



LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday, August 25, 1986

The committee met at 1:14 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT  
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: We have completed a week of examination of Bill 51. We now move to the process of public hearings, where the committee will benefit from the opinions of all sorts of people, primarily in Toronto, but also across the province, before any further action is taken on amendments to the bill and before it is referred back to the Legislature.

Today we will sit from one until five. It would be nice to adjourn at five, because members members who want to have supper will have to go outside the building to do so. We have to be back here by seven for the evening session; so we should try to be out of here by five. If I am a little bit strict or testy with the time, I hope you understand it is to everyone's benefit, including those making presentations, that we try to stay as close to that time frame as we can.

We will proceed with the first presentation. Mrs. Korol, if you want someone with you, that is fine. I talked to Mr. Schwartz earlier and it is not a problem. Welcome to the committee, Mrs. Korol and Mr. Schwartz. We are pleased you are here.

MRS. GERTRUD KOROL

Mr. Schwartz: Mr. Chairman, ladies and gentlemen, Mrs. Korol will tell her own story in her own words. I am here to give her a little encouragement and a little moral boost. Since English is not her mother tongue, she may not understand some questions. I am here to give her some assistance. Mrs. Korol, will you start with the story of how and when you came to Canada and what you did?

Mrs. Korol: My husband came to Canada in May 1949. He prepared the papers so that I could come to Canada, but we got married over there. I came in December 1949. He had a stiff leg and was sick a lot. He had a bone operation before our daughter was born in 1950. I was in hospital twice. We had to pay everything ourselves. He worked as a bartender in a hotel. Later, we moved into the hotel. I cleaned two apartments, washed the clothes for five rooms and cleaned them every day so that we did not have to pay too much rent. We paid \$10.

Mr. Schwartz: The first city you lived in was--

Mrs. Korol: Hamilton.

Mr. Schwartz: Then you bought your first house, you tell us.

Mrs. Korol: Yes. We bought our first house, because we paid only \$10 rent. By the time Mr. Klein sold the hotel, we had enough for a down payment on our first house.

Mr. Schwartz: How many years did you save to buy the first house?

Mrs. Korol: About five years.

Mr. Schwartz: How much did you save?

Mrs. Korol: About \$5,000.

Mr. Schwartz: How much was the house?

Mrs. Korol: We paid \$7,500. It was a six-room house. We lived downstairs with two children and we rented the three rooms upstairs. We paid off the mortgage in no time. My husband had a stiff leg and at one time he had his leg in a cast from top to bottom for three months. We lived upstairs in the hotel and he went downstairs to work. Even so, he was always standing at his job. Sometimes his foot was swollen like a balloon. It was very hard for us.

Mr. Schwartz: Did you bring any money when you came to Canada?

Mrs. Korol: No, I did not bring any money. I was 15 when my mother died, and that was under the Russians. I was left with my small sisters and brothers. All I know is how to work and it is the same with my husband. Later, when Mr. Klein sold the hotel--

Mr. Schwartz: You are jumping ahead.

Mrs. Korol: I am a little nervous.

Mr. Schwartz: Do not be nervous. In 1956 you moved?

Mrs. Korol: We moved to Toronto and we bought a house for \$15,000.

Mr. Schwartz: How much did you put down?

Mrs. Korol: We put down about \$6,000 and we rented the house in Hamilton for two years. Then we sold it, and when we got the mortgage payments from the house in Hamilton, we paid off this one faster.

Mr. Schwartz: In 1956, you moved from Hamilton and bought a house in Toronto for \$15,000?

Mrs. Korol: Yes.

Mr. Schwartz: The whole house?

Mrs. Korol: The whole house.

Mr. Schwartz: How much was the mortgage?

13:20

Mrs. Korol: About \$9,000. We rented the upstairs here in Toronto for \$21 a week and we lived downstairs.

Mr. Schwartz: Did you work all those years?

Mrs. Korol: Yes. I worked from 1960 until 1967, until we moved to the apartment building.

Mr. Schwartz: Where did you work?

Mrs. Korol: I worked in the Royal York Hotel as a maid in the new wing on the sixth floor. I used to get up at 5:30 in the morning and go to work. My husband worked in the afternoon, so he gave the kids their lunch. When they came out from school, I was home. Sometimes I did the shopping at night, such as on Fridays, so by the time I really finished, it was nine o'clock in the evening. In the morning I got up and went to work again.

Mr. Schwartz: After being in Canada for 16 years and both working--right?

Mrs. Korol: Right.

Mr. Schwartz: In 1965, you bought what?

Mrs. Korol: We bought a fiveplex.

Mr. Schwartz: That is where you live now?

Mrs. Korol: That is where I live now.

Mr. Schwartz: You put as much down as you could?

Mrs. Korol: We put down \$25,000 because we did not want to take a big mortgage. My husband did not know how long he could work because he had osteomyelitis. That is something the doctors do not know. They say it might never come back or it could come back every couple of years. It is something in the bones, and they have to scrape the bone and clean it up. One time, they even filled the kneecap up with some type of stuff. He had lots of big operations. Sometimes they would cut deep to put in long bandages.

Mr. Schwartz: Did you or your husband do the work around this building you have now? Have you had it since 1965?

Mrs. Korol: We bought it in 1965.

Mr. Schwartz: Did he do all the repairs?

Mrs. Korol: He did most of them.

Mr. Schwartz: Did he do most of them himself?

Mrs. Korol: Yes, most of them. Sometimes my brother would come to help fix something.

Mr. Schwartz: Did you ever go to the rent review commission for a hearing to get more rent?

Mrs. Korol: No. We never did because they said that if you had no mortgage, you would not get anything, anywhere. We never went. In 1978, my husband quit working.



Mr. Schwartz: Why?

Mrs. Korol: Because his leg bothered him. Then I started to worry.

Mr. Schwartz: He was older than you?

Mrs. Korol: He was seven years older.

Mr. Schwartz: Yes.

Mrs. Korol: When he quit working, I started to worry. Later on, I had a big operation. That was in April. Then, in August, I started looking for a job. I found a job and I went back to work. I did not make much, but at least I had enough to pay for the groceries and so on.

Mr. Schwartz: What happened when rent controls came in, around the end of 1975 or the beginning of 1976? Did you live in one of the units yourself?

Mrs. Korol: Yes.

Mr. Schwartz: How many were you renting?

Mrs. Korol: Altogether, five apartments were full. We were renting three upstairs and one in the basement.

Mr. Schwartz: Those years that you had the fiveplex, starting from--

Mrs. Korol: In 1965.

Mr. Schwartz: How did you run it? Did you always increase the rents? What was the situation in those early years?

Mrs. Korol: In the early years, sometimes my husband raised the rent by \$5 once every two years, or sometimes it was not really necessary because taxes increased by only about \$40. Everything was much different from now.

Mr. Schwartz: Did you sometimes have to reduce the rents?

Mrs. Korol: No, we never did. The first time, when we just started and we did not live there, the rents were around \$150. We could not rent one apartment because we were not there; so my husband rented it for \$10 less, just to get it rented. In 1978, when my husband quit working, I started to work, and then last year I found out that he had throat cancer.

Mr. Schwartz: When the controls came in, at what level were your rents?

Mrs. Korol: I do not know exactly, but they were low. They started at \$165 and after 16 years they were up to \$429. In the beginning, they had to pay their own hydro and then, in 1973, they changed it so that we paid the hydro bill. I even phoned the rent review and asked them whether they thought rent control was fair. They said they thought it was very fair. I said: "I do not think so, because my son is renting an apartment. He has to pay his own hydro, and he gets a six per cent increase. We have to pay the hydro and we get the same six per cent."

When they changed, we increased the rent by \$10, but right now the hydro bill is between \$250 and \$300 every month, and we do not get any increase for that. Even right now with the increases we got, the four per cent, we get a \$95-increase. That is what the increase was, by four per cent on the four apartments. The gas bill alone went up by \$104.45, the taxes went up by nearly \$500 and the hydro went up too. I do not know by how much, because the Hydro bill is different every month.

Mr. Schwartz: Mrs. Korol, would you tell the committee about your relationship with your tenants? All through the years did you have good relationships?

Mrs. Korol: We have always had very good tenants, two in more than 30 years. The first one stayed more than 16 years. After a while they got jealous. They think, "Look what you have and look what I have." They could have bought the same building. There were buildings in the street, but they did not want to go and work.

When we went to work, we shovelled the snow ourselves. We cut the grass, we cut the hedges and we carried out the garbage. We did all these things. I go and fix the dryer. Because my husband had a stiff leg when he was alive, he used to say: "Mom, the dryer is not working. Can you go down?" Okay, I take the flashlight and I sit on my knees because I cannot bend down. I take the back off and I look to see which wire is loose. He puts on the clip, I put it back in and it is working again. Lots of times I changed the heater in the dryer. There are lots of things. I put in switches; I do many things. It is the same for my neighbour because her husband passed away five years ago.

When my husband was in the hospital and he was dying, I had an empty apartment, but I never got home to rent it. The sign was there for more than a week and nobody was there. I talked with my neighbour and she said, "How about putting my phone number on it?" She put her phone number on the sign. People phoned and she told them what time I would be home. The first people phoned and asked whether 8:30 in the morning was all right. I went to the tenants and I asked them whether it would be okay if the people came to see the apartment at 8:30. They said, "Yes, it would be okay." They came and saw the apartment and rented it right away. But we need a good neighbour because we are all alone.

Mr. Chairman: Mrs. Korol, I am concerned that you are going to run out of time before you have really had a chance to get into what you think should or should not be done in regard to the whole rent review process.

Mrs. Korol: I know one thing. The wife was a schoolteacher and the husband was a doctor. They make good wages, and I see no reason why I am supposed to support them. When my husband quit working, I worked as a homemaker. I took my car, my gasoline, and I travelled around. In the beginning, it was poor. Then they cut it down to three hours. You work in one place three hours. You go from Bloor Street up to Lawrence or Bayview. It is okay because I help the people.

Mr. Schwartz: Would you tell the committee about the recent problem you ran into with the law?

Mrs. Korol: Yes. We had a problem with one tenant. The first tenants stayed 16 years, and after they moved out, we had a very cheap rent, \$429 for a five-room apartment. We gave the second people the garage and the parking spot, and my husband charged them \$600. The first people told them, because they were always on the jealous side.

We got the first letter from the rent control in the summer last year, and I went to the meeting on January 7. My husband was in the hospital. They put in a tracheal tube because he could not breathe one night. I told them that I went there. I phoned lots of places. I phoned a man at rent control and talked to him quite a few times. He was very nice. He listened to me and told me to go to the meeting. I went. The commissioner read from the book and then said to me: "You might be right, but it is not in the book. There is nothing I can do for you."

13:30

I got it all figured out and everything nicely put together. I took my bills, the whole works, with me, but nobody asked for them or looked at them. After that I got lots of letters. I always got in touch by phone.

I told them my husband was very sick. The doctors told us after his second operation on January 20 that he had only a short time to live because the growth was on the blood vessels that go to the brain. They said they got 95 per cent of the cancer but could not get the other five per cent. They told me I had better put my house in order. I got all the papers and the ownership of the car. I let him sign everything.

It hurts.

Mr. Schwartz: What was the order you got?

Mrs. Korol: I was supposed to pay back \$3,000. A neighbour of ours put in the postponement papers, and they postponed it. The meeting was in April. I phoned them up and told them my husband was very sick and I could not go. They wrote a letter saying they could not postpone it. In the meantime, on May 2, my husband passed away. I phoned them up and said: "What do you people want from me? Do you want my blood? Are you going to hang me, shoot me? It does not matter any more.

Even now, everything goes up so much. The increase of four per cent does not cover expenses. I am going to lose the place unless I go back to work. On \$550 I cannot make ends meet.

Mr. Chairman: Thank you, Mr. Schwartz and Mrs. Korol.

Are there any questions?

Mrs. Korol: I phoned Mr. Reville once and talked to him.

Do you remember?

Mr. Reville: Yes. Mrs. Korol, I assume you are telling the committee you have not always been able to get enough rent for the units you own.

Mrs. Korol: For a while after my husband quit work we did not know we could get any money from anything, and so we got nothing. I started to work, and he got sick and was in the hospital. He got the disability pension of \$280 a month. That still was not very much, and two people could not live on it.

It was good that we always had our own house and always rented, because from the wages my husband brought home, we could not afford a bungalow or to pay the rent. When my husband quit working, the most money he made was \$7,200 from the \$39 a week. From that money we certainly could not pay rent and live.



We always rented and put a little together, or the one would come and the other go. That was our life story for 37 years. Right now, lots of times, I worry about everything.

Mr. Reville: Did you not know that you could apply to rent review for an increase in the rents?

Mrs. Korol: My husband should have. In the meantime, I went to work instead of going to rent review. That is why we did not go. Everybody said that if we had no mortgage, we would not get anything. When I went up there I thought they might say to me: "You made a mistake. You should have come to us first."

Mr. Reville: Do you know of an organization called the Landlords' Self Help Centre?

Mrs. Korol: I went there. You sent me there. I phoned there before I phoned you. I phoned all over the place. I am not so good in talking right now--

Mr. Reville: Did they give you some advice?

Mrs. Korol: Yes, they gave me some advice.

Mr. Reville: Do you know this bill will allow you to show that your costs are too high and that you can get more rent?

Mrs. Korol: Yes. I think I will go there, maybe even tomorrow.

Mr. Reville: This bill does not work just yet, but you can apply for rent review at any time. You know that.

Mrs. Korol: Right now, I have a good tenant. I do not want to increase it unless it is necessary, because it is more important to have good tenants than anything else. I have good tenants. When my husband passed away, they all asked, "Is there anything we can do for you?"

Mr. Chairman: Are there any other questions of Mrs. Korol or Mr. Schwartz?

Ms. E. J. Smith: Is there any part of the bill, Mrs. Korol, that you feel, if it were enacted now, would still leave your problems unresolved? Or have you examined it and would you say that from here on in it will be helpful?

Mrs. Korol: I do not know what would be really helpful, but I think--

Ms. E. J. Smith: Going ahead I meant.

Mrs. Korol: It is nice to help the needy people, but if you have doctors, lawyers or teachers, they make good wages. If somebody comes and looks at the apartment and cannot afford it--when we came, we stayed with five people in one room and one kitchen because that was all we could afford.

Ms. E. J. Smith: I agree with what you are saying and with your sentiments about the doctors and the lawyers. Do you feel the provisions made in the bill to allow for legitimate costs and so on will resolve your future problems?

Mr. Schwartz: Mrs. Korol asked me to answer that question. In her situation, the present bill is not really going to help her that much because she has no mortgage. The only increases she could justify would be increases if she were to do some capital improvements, which she is not planning at the moment.

Mrs. Korol: I have to do some.

Mr. Schwartz: What do you have to do?

Mrs. Korol: I have to put a roof.

Mr. Schwartz: That will be in the future?

Mrs. Korol: Right.

Mr. Schwartz: As Mr. Reville mentioned, the old bill did not handle this matter any differently from Bill 51. When you apply for an increase higher than the statutory increase, there is not much difference in the cost pass-through for pre-1976 buildings between what is in Bill 51 today and what is in the old law at present. There is just a cost pass-through of expenses without any other consideration for pre-1976 buildings.

In the case of Mrs. Korol, there is not going to be that much relief for her, and now she is faced with the possibility of having to pay back \$3,000 in illegal rents. I do not see anything in the bill that will help her, perhaps because this order was issued under the existing law. I am not sure what will happen with that \$3,000 order, whether it could be carried over to the new bill. That is perhaps something you should be looking to.

Mr. Chairman: Are there any other questions?

Mr. Davis: Perhaps the minister or his staff can help me with this. It is my understanding that the \$3,000 will be carried over under Bill 51. Is that not correct?

Hon. Mr. Curling: I had better get one of my staff to respond to that.

Mr. Church: Any order given under the rent review administration of the past will stand into the future.

Mr. Davis: So it stands.

Mrs. Korol: That was before. I went again on July 9, and I have not heard anything from them since.

13:40

Mr. Chairman: Thank you, Mrs. Korol and Mr. Schwartz, for helping out. We appreciate it. You are the very first presenters as we try to wrestle with this bill.

Mr. Schwartz: Perhaps I can leave this letter from a tenant who has left.

Mrs. Korol: Who is going to leave.

Mr. Schwartz: He is about to leave. It is a very short letter, and perhaps I can be permitted to read it.

"Dear Mrs. Korol:

"I am leaving for New Brunswick at the end of the month to return to university. I have enjoyed Toronto very much these past two years, and one of the main reasons is the hospitality that you and Mr. Korol extended to me. I am very grateful to you. The apartment has definitely been my home, and I will miss it.

"Sincerely, Michael Rouse."

Mr. Chairman: Thank you, Mr. Schwartz and Mrs. Korol, for appearing before the committee.

The accordian folder contains the exhibits we have received so far. The next presentation is from William Krehm, general manager of O'Shanter Development Co. He was kind enough to send us his presentation ahead of time. It is exhibit 38 in your accordian folder if you want to refer to it.

O'SHANTER DEVELOPMENT CO.

Mr. Krehm: Because of time limitations, I will confine myself to the most objectionable features of Bill 51.

The interim restraint on the pass-through of increased financing costs resulting from the purchase of a residential complex is placed on a permanent footing. Four years ago this provision was brought in as an emergency measure to deal with the flipping of the former Cadillac Fairview buildings by Leonard Rosenberg. From all reports, Mr. Rosenberg is a gentleman of unusual talent, but he would have had little scope for that talent if six years of rent review had not set the stage for his act. By disregarding the rules of accountancy, it had created a widening gap between the value of rent-controlled buildings based on their income and their replacement value.

In his testimony before the Thom commission, Professor William Stanbury identified that gap and its wonderful powers to make strange things happen. Mr. Rosenberg was one of those strange things it caused to happen. The departure of Cadillac Fairview from that phase of the industry was another strange thing it caused to happen, of which the then government can hardly be proud.

Adopt policies that will make that gap yawn wider and even stranger things than Mr. Rosenberg are bound to happen. Because I will be referring to the gap in the course of my brief, I will call it the Stanbury gap. You will understand very little about what is going on in rental housing in this province unless you keep your eye on the Stanbury gap.

Seven years ago, in a brief before a legislative committee on rent review much like this, I urged the government to take advantage of this gap to buy up the buildings of landlords for a song. However, as the largest landlord in the province, the government knew more about the economics of rental housing than it was prepared to admit and it did not take up the suggestion. It put its money in Suncor instead and in that way the field was prepared for Mr. Rosenberg.

What is disturbing is that landlords as a group should have been caught in the crossfire between the minister, Mr. Elgie, and Mr. Rosenberg, even as a



temporary measure, but why the present bill should convert that emergency provision into a permanent feature of our legislation is beyond all understanding.

There comes a time in the life of a building when a change of ownership is not only pardonable but absolutely essential. Even though rent review makes no provision for depreciation, buildings do deteriorate. The corrosion of underground garages can only be described as the AIDS of the industry. Not only is the therapy costly but also it is of uncertain effectiveness. Coping with such problems calls for a financial stamina that not all landlords have, especially after 10 years of rent review. Many of the original owners are in their 70s and 80s; some have even passed on to a higher tribunal than rent review.

If it is the intent of this measure to discourage flips, there is an obvious way to do so: make it possible for landlords to earn a reasonable return while keeping their buildings, or apply the provision only to buildings that have already changed hands within the previous five years. I do not know how good politics that would be, but it would make economic sense.

However, rent review has made it necessary for landlords to sell their buildings in order to remain solvent. When a building changes hands, huge costs are incurred. Even with his financial loss spread, the incoming owner can obtain increases of which his predecessor would never have dreamed. You must understand that spreading losses is one of rent review's charming euphemisms. The losses suffered by the landlord until he is finally allowed to break even on 85 per cent of his purchase price, plus the interest he pays on those losses, he never sees again. Once you cut yourself loose from accountancy principles, you are adrift on a sea of irresponsibility with neither anchor nor compass.

There is no adequate way to describe the fragrance of a rose; you have to have the thing held under your nose. Therefore, I will tell you about our experiences since we acquired Brentwood Towers two and a half years ago. That project consists of 957 suites near Yonge and Davisville. We got it for a knockdown price, \$18,200 a suite. There were reasons for that knockdown price. The buildings were in poor repair. There were huge, uncharted garage repairs to be done. They had never been subject to the rent review decision and rents were far below even those of controlled buildings. The cash-flow deficiency, even at our price, was enough to frighten prospective buyers out of their wits. Several accepted offers, including one from Mr. Rosenberg, had failed to close.

Under the rules of rent review, our bargain price is automatically passed on to the tenant. Fair enough. However, we are left with the problems that explain the price. As low as our price was, our mortgaging is recognized only up to 85 per cent of that price. On the other 15 per cent, we cannot even expect a return. The interest we pay on the mortgaging up to 85 per cent can be passed into rents only at the end of six years. For the first year of our operations, rent review documented a financial loss in excess of \$1 million, approaching \$1.25 million.

In making our first application to rent review, we were up against a problem. We had no record of our own operating costs. Necessarily, we had to take those reported by our predecessors, and they had run the building very inefficiently. The guesstimate of our operating costs for our projected year was accompanied by another guesstimate for the financial loss arising from our purchase, yet any distortion of our rents arising from these guesstimates were

automatically limited. The guesstimate of our utility costs had gone into the calculation of our financial loss, which meant we obtained only about 17 per cent of it in our first year's decision. Any overstatement of our operating loss, meaning utilities that we were later to effect savings on, would have entered into the calculation of our financial loss, which was limited to five per cent a year.

The logical adjustment the second time we came to rent review, when our actual utility costs were at hand, would be to recalculate our financial loss in the light of our actual expenditures. In this way, our utility savings would have been treated exactly as our overstatement of utility costs had been the year before. It happened that we completely reorganized the heating system and were able to report heating savings of more than \$225,000 the first year, with more to come in the second year. It was an incomplete heating season.

13:50

Commissioner Sagoo, who heard the second appeal, did not choose the obvious and fair way of handling this good bit of news. He put through our entire utility savings as a negative pass-through in our operating costs, taking some \$200,000 out of our rents, where little more than one sixth of that amount had been added to those rents as a result of our inevitable overstatement in the first place. The Lord giveth; the Lord taketh. Rent review does better. It taketh what it has never given.

These are two illustrations. I could give you 20.

We had retained a management company to appeal our assessment for a contingent fee equal to one half of the first year's tax savings. The savings turned out to be \$13,700 and change, and the fee we paid accordingly was \$6,800 and change. Because of the successful appeal, the commissioner passed the tax reduction in full to the tenants, but the fee we paid was amortized over five years; that is, we were allowed one fifth. End results: our tenants were ahead \$12,500 for the first year, and we were out of pocket by \$5,700 and change. We will continue to suffer losses such as this for the next four years.

Clearly, given rent review, we would have been wiser not to have appealed our assessment, just as we would have been smarter to let the old heating system clang on. I assume that is not what the government had in mind. If it does not, it should think things out a little more carefully.

Even in the communist countries, in Hungary, China and the Soviet Union itself, incentives are becoming the buzzword for dealing with economic problems. Queen's Park, however, seems to have been left behind, waving Mao's little red book.

What in the world would have prompted Commissioner Sagoo to hand down so grotesque a decision? He is one of the ablest people on the rent review board. He does not carry a great baggage of prejudice, one way or the other, but he has a keen nose for the way the political winds are blowing.

Bill 51 will drastically curtail the rent review staff. There is much concern among commissioners, many of whom are middle-aged and better, about their continued livelihood. Against such a background, appointments are being handed down in the new setup. Appointments handed down today can prove as important as anything the Legislature passes as law. Two such posts have recently gone to two commissioners who have minted careers out of their

immoderate anti-landlord bias: David Braund, named head of the rent registry, and Dana Richardson, appointed assistant to a key official in the housing ministry. More remarkable still, with the scarcity of employment prospects for tried and seasoned rent review personnel, the housing ministry has found a post for Diana Hunt, past president of the Federation of Metro Tenants' Associations and frequent speaker at intimate Communist party gatherings. I would like to leave this as record.

I certainly would have no objection to Mrs. Hunt finding employment as the Premier's chief of protocol, but putting her in a sensitive area in the housing ministry, with her political connections and political record, does not leave very much intact of the minister's professions of fair play between landlords and tenants.

There is only one way of introducing evenhanded treatment for landlords and tenants, that is, bringing in the rules of double-entry bookkeeping. Public relations and glad-handing alone cannot possibly do the job.

Such appointments and the marked deterioration of rent review decisions in recent months have sent a signal to landlords. In the past four years, our company has sold about 2,000 of our units, many of which we had owned for 15 to 20 years, because we were getting the wrong sort of vibes from rent review hearings. Unless there is timely rectification of Commissioner Sagoo's decision at the appeal level, we will do exactly that with Brentwood Towers. We bought the project to rehabilitate it and keep it indefinitely. Should we be driven to sell it, the tenants will be the first victims. We have excellent relations with the tenants, as was shown at the hearing. The pressure on Commissioner Sagoo certainly did not come from them.

One of the most unacceptable features of the bill is its complicated division of our rental stock according to age, date of initial occupancy, etc. In this classification, buildings put up and occupied before 1976 get the short end of the stick. It is just these buildings, however, that have suffered at the hands of rent review over the years. That suffering is perpetuated in the rent base upon which future awards are calculated.

The greatest potential for creating new units at low cost and at no expense to the taxpayers is to be found precisely in these pre-1976 buildings. When they were built, building costs were still modest. As a result, much excellent floor area near or above grade was wasted on storage space and garages that could easily be accommodated elsewhere. Because of the present vacancy rate, most municipalities welcome such in-fill projects.

In a single year, our company created 30 such units within the structures of existing buildings. We have permission to build another 19, but we have put these on hold because of the extension of rent review to units renting for more than \$750. When created, such in-fill units share certain basic expenses with already existing apartments.

We have kept the Ministry of Housing informed of our innovationist program. Nevertheless, I can find no recognition of this promising type of development in the bill before you. On the contrary, in sections such as 77, you come away with the impression that the intent was to penalize those creating in-fill units.

To qualify for the most favourable treatment, "no part of the building must have been occupied as a rental unit before 1976." Apparently, whatever



the advantages to tenants of in-fill units, they do not afford the government the opportunity of striking the pose of public benefactor while piddling away taxpayers' money.

At the Thom commission, Professor Stanbury quoted from a Canada Mortgage and Housing Corp. report to the effect that "the present value of subsidies per unit occupied by low-income households in certain of its co-operative housing programs amounts to \$54,000." That figure, note well, is several thousand dollars higher than the final selling price of the former Cadillac Fairview Corp. Ltd. buildings in the flip to those legendary Arabs.

Such comparisons, however, are rarely made in the political arena. Unless I am mistaken, the ministry's position paper talks about \$500 million to be spent on nonprofit housing, while ignoring the vast potential for in-fill housing that can be created at no expense to the taxpayers.

Until now, Ottawa has picked up by far the greater part of the cost of the messes left by Ontario rent review. It would be unwise for you to count on much further mileage along that road. Under the glare of television cameras, the federal government is wrestling with its deficit, and not doing too well, I might add.

Vital services in provinces with basket-case economies are being slashed. In the midst of this, the richest province in Confederation chooses to go on with this senseless and antisocial squandering of public funds. That is hardly going to advance the cause of national unity.

The complicated categories into which the bill divides our rental stock guarantee administrative nightmares. To determine the treatment of financial and economic loss, buildings are ranked according to whether any part of them was rented before 1976; whether the purchase was from the original owner; whether the complex was constructed for the purpose of such a sale; whether the building permit was issued on or before several different dates, etc. In all this muddle, the pre-1976 buildings come off the worse by far.

In section 88, we learned that to qualify as chronically depressed, such buildings must have rents "more than 20 per cent below the gross potential rent for complexes that are comparable...in terms of...quality and location."

14:00

That may sound reassuring, but on closer examination, it offers the aggrieved landlord a lot of nothing. Obviously, the age of buildings will have a lot to do with their quality. Buildings of a similar age will have been subject to the same treatment under rent review and will have depressed rents. At most, the probation may help the rents of the odd building never taken to rent review to the level of its peers, but it can do little to improve the status of the whole group. For the whole group to qualify as chronically depressed, all would have to show rents below one another's by at least 20 per cent. That is quite an order.

Even if they managed to clear this semantic booby trap, they would still not have a great deal to hope for. They would still have to prove under clause 88(1)(b) that "the rate of return on the landlord's equity...is less than 10 per cent."

Nowhere in the bill is the term "equity" defined. Clearly, the older the building, the greater the need for such a definition. If we owned a building

for 20 years and our original cash down payment was taken as our equity, we would be lucky if it represented 15 cents on the dollar of our real stake in the project.

I would like to believe that this vagueness is due to poor drafting. This, however, is ruled out when we compare the clauses mentioned with those setting forth the treatment of newer buildings.

Thus, subsection 77(1) lays down with complete clarity that "the rate of return of a residential complex...the building permit for the construction of which is issued,

"(a) on or before the 1st day of January, 1987, is 10 per cent; or

"(b) after the first day of January, 1987, is the three-year moving average, as of the year in which the building permit is issued, of the 10-year Canada bond rate plus one percentage point,

"of the landlord's initial invested equity, including the principal portion of any debt not otherwise allowed, and capitalized losses."

To achieve those in a single year, the landlord may increase his rents up to three times the statutory amount.

Rent review used to justify the spreading of losses because of the financing of purchases by arguing that the developers were used to this sort of thing. They always lost during the first few years of a project. Now that has been forgotten in dealing with new buildings. What remains of a rationale for spreading financial losses for older buildings, something that the bill has for the first time made a permanent feature of our legislation?

It is not hard reconstructing the tortuous path that led to this twisted result. To get New Democratic Party backing for their minority government, the Liberals agreed to bring post-1976 units under rent review. Several of the largest developers parried with the ultimatum that they would stop building rental units. That led to months of negotiation and the present bill.

The bill offers far more new units than the present and foreseeable market will allow. By releasing the new units from rent review, the ministry could have achieved precisely the same results for their rents without setting up a costly, hopelessly involved, bureaucratic process. Clearly, the name of the game is not to save tax dollars, or our housing stock, but politicians' face.

The problem was to enlist the professional tenant organizers for this charade. This was achieved by handing over the pre-1976 units to their mercies. Hence, the installation of Bill 98 as permanent legislation. Hence, the abolition of the \$750-escape hatch and, most sinister of all, the bringing in of anti-landlord ideologists to key posts of the government structure. We are thus taking a further step towards solving our rental housing problem as thoroughly as they have in Moscow and Leningrad.

I urge your committee to make haste slowly and take a careful look at certain types of buildings that fall into the favoured categories set up by this bill. I refer particularly to multiple-unit residential buildings. Up until 1972, Ottawa had allowed tax credits against other income for losses from the operation of rental properties. In that year, it discontinued the

arrangement. In 1974, however, it introduced this tax shelter feature, but only for buildings started after that date. With so slim a supply of their product, promoters took to figuring what the shelter might be worth to buyers and front-end loaded most of it on to their price.

Moreover, since the shelter feature was transferable to new buyers under the original MURB law, the amount of the shelter was escalated every time such buildings changed hands, for what was being served was packaged tax gimmickry as much as bricks and mortar. Belatedly, Ottawa awakened to the idiocy of it all and discontinued MURBs.

With the triumph of rent controls across the land, apartment starts dropped and it was felt there was need for an incentive to balance the disincentives. In 1980, MURBs were revived, but for the new units the MURB feature was nontransferable. Because of this, marketing of born-again MURBs proved tough going. Without transferable shelter, the solvency of such deals hung precariously from rent escalations projected into the distant future made possible only by a free market.

It was into this shop of tinkling china that the Ontario government barged with its extension of rent review to all rental projects. The mayhem resulting for both MURB promoters and their mortgage lenders could well have put the Rosenberg-Elgie production into the shadows. Hence the frantic trading into the night that has led to the present bill.

The rescue, however, has been purchased at a crushing price. The rent review system still denies the owners of older buildings a return on their original investment. It accords MURB promoters a return on the capitalization of tax shelter for which the taxpayers of this country and this province have already paid through the nose. It is hardly surprising that one of the highest profile MURB developers, one not unconnected with the backroom strategy that has led to this bill, should already have announced taking his becalmed MURB projects public.

This at a time when tax shelter has become a dirty term within both Washington and Ottawa. I can understand perfectly well how people in government occasionally fall into the impression that they are Caesar. They should, however, remember that they are also Caesar's wife. They must not only be pure, but must also be perceived as being pure.

In this bill there is the stuff of scandal. While all this has been going on, you have missed a rare opportunity for increasing our rental stock. The housing market has been booming, vacancy rates are touching zero and interest rates are relatively low. With the phasing out of rent review, such a constellation would inevitably have brought on a surge in construction of apartments.

Flush with profits from subdivisions, developers at such times used to ply their winnings into apartment buildings without worrying unduly about operating them at a loss for a few years. All they wanted was the depreciation and the prospect of an eventual profit. That is exactly what rent review has been denying them over the years, and breaking its word does not help the government erase that unfortunate impression.

How to work our way out of this mess? By extending uniform treatment to all landlords and embarking on a serious plan for phasing out rent review. Landlords and developers can be gradually released from rent review in return for our making a substantial contribution towards solving our rental problem where it really exists.



A variety of options can be offered in this sense. For example, two government reports that I can remember--possibly three--identified 30 per cent of renters as having affordability problems. Hence, landlords can be given the option to make available to the government 30 per cent of their units at rents 10 per cent below the last rent review decision in return for the release from controls of the remaining 70 per cent.

The units placed at the disposal of the government will for 10 years have their rents increased only by the statutory rate. For those who need assistance, assistance will be available in greater quantity than it is today and at lesser cost. The rents of the decontrolled units will not be increased by more than 10 per cent per annum until they reach market level.

The second option--these can work side by side and you can formulate another 10; the more the merrier, provided they pursue this social goal--is that landlords shall have one unit released from controls for every new unit created by them. The new unit will likewise be free from controls. It may be in existing or in new structures. In this way, rent review would be completely phased out only when the housing stock would at least have doubled and not at the cost of the taxpayer.

14:10

Developers creating new units would receive a transferable certificate for the release of a controlled unit of similar size and quality. This they will be free to sell to landlords wishing to decontrol a unit at a negotiated price. The proceeds from such sales will make it possible for our governments to reduce their subsidies for new construction.

We have slipped into the belief that our apartment stock cannot be reproduced. That is rather like the barbarians of the Dark Ages who huddled in the ruins of imperial Rome and thought them miracles of a vanished golden age. Significantly, that belief did not prevent them from using those ruins as stone quarries, much as we allow our apartment buildings to deteriorate under rent review. Our buildings are not irreplaceable. If they seem so, it is only because for a decade we have been playing political games with a very serious social problem.

Mr. Chairman: Thank you, Mr. Krehm.

Mr. Krehm: If I may, I would like to put this on the record.

Mr. Chairman: I thought it was your book you were tabling with the committee.

Mr. Krehm: No. These are two pages from the Canadian Tribune, which will give you some idea about the genesis of rent review and its real guiding force.

Mr. Chairman: Are there any questions of Mr. Krehm?

Mr. Reville: You are aware, I believe, of the minister's Rent Review Advisory Committee.

Mr. Krehm: I am indeed.

Mr. Reville: Would I be correct in assuming that you do not feel the landlord representatives did a good enough job?

Mr. Krehm: No. That is not the point at all. We were members of the organization that contributes to and participates in that committee, who contributed both time and money until it became clear that a very special interest was being pursued. My quote of "trading in the night" is not original; it is a quote coming from a member, whom I prefer not to identify, of the very advisory committee.

Mr. Reville: You do not think the process the government followed of requiring landlord and tenant representatives to trade in the night was appropriate.

Mr. Krehm: I believe the trading should be done in broad daylight.

Mr. Chairman: Are there any other questions of Mr. Krehm? If not, thank you, Mr. Krehm, for appearing before the committee.

The next presentation does not have an exhibit. There is no exhibit in the hands of the committee. That is Joseph Tenenbaum. Is Mr. Tenenbaum here? Please have a seat and be comfortable. Thank you, Mr. Tenenbaum, for appearing.

JOSEPH TENENBAUM

Mr. Tenenbaum: Good afternoon, gentlemen.

Mr. Chairman: The committee is ready to hear your presentation. Will you proceed?

Mr. Tenenbaum: I am in a very difficult position following the eloquent speech and English spoken by Mr. Krehm. Obviously, you will notice the difference.

Mr. Chairman, ladies and gentlemen, Minister of Housing, guests, I want to thank you very much for this opportunity to appear before you and to talk about an industry where I have spent most of my life. I want to spend a few moments to tell you about my background because I believe it will help to put many of my comments in the proper perspective.

As you have probably noticed already, I speak with an accent. On top of that, I have a sore throat. It may appear to you that during my talk, I will contradict myself; so I beg you, gentlemen, have patience, bear with me until the jigsaw puzzle you will find falls in place, piece by piece.

I believe that inviting the thoughts of others into our minds is a greater form of hospitality than inviting their bodies into our homes. Therefore, I would like to divide my allotted time, which is 30 minutes, into three parts. I will introduce myself to you properly, because I want you to know what I bring with me, who you are talking to; the credibility of an expert witness. Because I am not a speaker, I would like to speak only 10 minutes on the subject matter. Perhaps it is not for you to give, but every one of you should ask 10 minutes' questions of me and I should answer them. But 10 minutes, 10 hours, 10 days, 10 weeks, will not tell the story of the crisis we are facing.

We are only going to touch just a bare little, perhaps a minute surface. I do not feel my purpose here is solely to convey to you a simple message. On the contrary, because I have come to love this industry with fierce passion and I embrace it with full commitment, I wish to deal as honestly as possible with the topic at hand, and I wish to share with you some of my significant experiences.

When I was 12 years old--only 12--I was taken into a forced labour camp. I worked for a firm by the name of Richard Strauss Hochbau und Tiefbau Gesellschaft--meaning one of the largest companies in Germany--that built high-rises and underground services. Forced labour. I worked in many places. I do not want to enumerate them. When I was 15, under them, I was building residential, industrial and institutional buildings, in Prussia, in Krakow and all over. At 17, I was in charge of forming concrete, building tunnels in the mountains and ammunition factories in the concentration camps of Melk, Ebensee and Mauthausen--all over Austria. That was my job.

In the concentration camps where I worked, I was very valuable to the Germans. They guarded me. They branded me as a good man, as a man they needed. They branded me so much that they branded my arm with a tattoo "Concentration Camp" that I should not escape again.

I am telling you this, gentlemen, for a reason. I came to Canada by choice, because I recognize the opportunity of succeeding in the industry. Choice is something that is very important and precious to me, because earlier on in my life I was denied any freedom of choice. I choose to build in Oakville. I build in Oshawa. I build on Weston Road. I build in Mississauga. I build on Lawrence Avenue. I build all over. Wherever I could, I built. I built on Sherbourne Street. I built on Wellesley Street, a few blocks away from here. I built on Isabella. I built in Don Mills.

I built quite a few buildings. I borrowed money. I took on partners. I hocked everything I had. I borrowed money from friends, institutions and banks and I invested in buildings. If I did not have enough money for the next project, I sold it, but I reinvested the money.

14:20

I was not the only one. There were many people who owned chicken farms in New Jersey and many who owned farms in New York state. They all came. There were many who owned factories and were in the garment industry. They all came and they built half of East York, York and North York. They built all over. We built so many buildings that a glut was formed and we had to give away free rent. On Wellesley Street, I had to give away an apartment at a price of \$130. I had to give three and four months' free rent because everybody was building. Everybody came to the industry. This happened everywhere. We had to give all the incentives to find tenants. There were many more apartments than there were tenants.

Looking at this legislation, there are certain choices, economic and political, that must be made. It is these choices that I choose to address in my presentation. These are the choices. I will deal with economic choice first.

For example, we have two simplified performers in the construction and operation of similar apartment blocks. The assumption in terms of the lease-up is the averages that currently exist in each market. Economically, it makes far more sense for me to invest in Edmonton than in Toronto. This is what I have done. In the past year, I have built in Edmonton and I have been very pleased with my investment. I receive a fair rate of return, not because it is mandated by legislation but because the marketplace is operating properly. I have chosen to build in Edmonton and other free enterprise places because I have greater faith in the rough justice of the free market than in the silent commitments of government.

I remember 1976, when we were promised that rent controls would be a temporary measure. I remember 1978, when we were promised that rent controls



would never extend to buildings built after 1976. I remember when I first read Bill 51; I saw the commitment to a fair rate of return and I smiled. I am sure this legislation will encourage some construction of rental accommodation, but over the next few weeks when people such as myself sit in front of you and say they will build, please ask them one question, "Build what?" There will be building, but it will be building for the top end of the market. It will be building for people who can afford to pay market rents for new accommodation. It will be building for people who already have a choice, and this is unfair.

It is also unfair when some owners of many suites do not support the Fair Rental Policy Organization of Ontario for selfish reasons. Is this fair? There are two ways to build: on a solid foundation or on a faulty one. In the same regard, there are those politicians who are solid in their beliefs and act upon them, and there are those politicians who believe and feel the same as I do but who act against their convictions and support rent controls in order to be elected and re-elected. Would you call this fair? Some people are not satisfied with the way the world is put together until after they have taken it apart.

When the interest rate was 18 or 20 per cent, the Robinsons, the Dixons and the de Klerks said, "Builders are not building because of high interest rates." Now that the interest rate is low, they are using other excuses to hold on to their needless and misguided position. Is that fair?

So much for that, gentlemen. Now I want to talk a little bit about the political choices. There has been a lot of talk about the need for affordable housing, and yet this legislation does absolutely nothing to address that need. I am sorry I have to say this while the minister is sitting here, but this piece of legislation will not create a single more affordable apartment for the tens of thousands of people who cannot find decent accommodation. The legislation may help him get re-elected, but certainly it will not help solve the problem.

Do you really want to know the problem? Gentlemen, I will show you the problem. This is the problem: thousands and thousands of applications with money from people coming into the buildings. These are the problem. You want to know more problems? On Saturday I went to the office for half an hour. Four people in need of apartments--here are the dates and the names--filled out applications. Here they are with the dates: August 23, one, two, three, four. I could give you 40. I did not have the time to take applications in half an hour.

Do you want to know the problem? I will show you the problem. No one represents them, no one speaks for them, because they are not organized, because they are scattered, one here, one there. Some families come to my office with tears in their eyes and beg for an apartment. From the humane point of view, it hurts. Gentlemen, believe me, it hurts. Yes, it hurts me when the government takes away the conditions to build.

I will survive. I will go somewhere else or build something else. I am a survivor. But what about these poor people? What about the disparity between people making \$40,000 or \$50,000 a year who are sitting in apartments and paying \$350 and people who are moving in and paying \$700 or \$800 in co-op housing that is subsidized by the government? What about that? What about the people who come to fill out applications, who are getting mad and waiting months and years and cannot find apartments and are practically forced to go ahead and buy a house.

As you read on Saturday, house prices went up by 25 per cent in 1985. They have to shell out everything, borrow from the family, take a large mortgage and pay 50 per cent or 60 per cent from their income for maintenance and nobody says a word. Nobody speaks for those people. We have a problem. No one says anything.

14:30

People are leaving the industry. Trades are leaving the industry or switching to other facets of construction. We know there is about 10 million square feet of free space in office buildings. Most of them are built by ex-apartment builders. Can you imagine? If there was no rent control, these vacancies would be in apartments. How much would the cost per apartment be?

The only beneficiaries of this legislation are the people who are already living in apartment units, renting at rates below market level. I am sure you hope that they will express their appreciation for this legislation at the ballot box. However, the political choice I place before you today is the choice of trying to solve the problem rather than moving ahead with Bill 51, which confers a benefit only on those tenants who currently have accommodation and which causes a severe dislocation in the rental market by contributing to an absence of supply.

The real challenge is to provide adequate housing for those people in our society who cannot afford to pay the market price. The answer is not that complicated at all. Believe me, it is not. There are people in our society who cannot afford food. We care for them not by controlling the price of food, so that everyone's food costs go down and our farmers are driven out of business, but rather by supplementing their incomes so they can afford what they need. There are people who cannot afford adequate clothing, and yet we do not control the cost of clothes, so that your suits and my suits will be less expensive. Our clothing industry would be in more trouble than it already is. We supplement their income so they can afford what they need.

The solution to the current rental housing crisis in Ontario is exactly and precisely the same. You do not help to solve the problem by controlling rents, so that the middle-income and upper-income earners can live in apartments with artificially depressed rents. You solve the problem by supplementing the income of the people in need, so they can afford to pay what it costs for adequate rental accommodation.

If there has to be rent control, what is wrong with limited dividends? Limited dividends were rent controls even before Ontario rent controls came on the scene. They worked. Many builders built limited dividends. It was rent control. Limited dividends were rent control. They worked. They were the voluntary way. It was a deal between the builder and the government. It was something that was applicable only to 10 per cent of the population. It worked only under sections 15 and 16 and different sections of the act, but the market was free, sacred and developed. Housing was plentiful and it worked.

In my humble and honest opinion, fairness to honest builders, investors, tenants and prospective tenants means a free, decontrolled market. It can be done. We have the solution. I am convinced that such a move will bring affordable housing to between 75 and 85 per cent of the rentals in the not-too-distant future.

There are many interesting and notable concepts in Bill 51, but I will not comment specifically on them in spite of the fact I have a brief and went over it point by point and we can discuss it. This I will leave to others because all this legislation does is to rearrange the deck chairs on the Titanic. Do you really want to know about Bill 51, because I see this gentleman laugh. I do not know his name.

Mr. Reville: I laughed at your joke about the Titanic.

Mr. Tenenbaum: It is not a joke to me; it is a serious situation. Do you want to know in better language what Bill 51 is? I am sorry to say it is an unwanted child, born to a prostitute mother called rent control. Now you can laugh. That is the way I feel about it. Ontario is facing a rental housing crisis of monstrous and growing proportions. It is a crisis created by rent control legislation. This legislation is more of the same.

I have looked at the economic choices and the answer is clear. The legislation has and will continue to drive investment out of the province in two jurisdictions where my ability to make a profit is dictated, not by government regulations but by my skill in a competitive marketplace. The real question is the political choice. Do you want to solve the problem or do you want to perpetuate it? The choice is really yours. Thank you.

Mr. Chairman: Thank you, Mr. Tenenbaum. Are there any questions?

Mr. Davis: From your presentation and your vast experience as a builder, are you countering the argument placed by the Minister of Housing and his staff who believe in the trickle-down theory? They have indicated that building in the province will be at the high level; so renters will move from their present rental facilities to one that is better or has better security or for whatever reason, freeing more units, and there will be a movement of tenants and, therefore, there should be an opening in the lower level. Do you agree with that?

Mr. Tenenbaum: Sir, I heard what you said and I believe two people in this audience know the answer I gave before. I was asked this precise question before the advisory committee. Pardon me, I should not use that word. I was asked if I am satisfied with the accord between the landlord and tenant, and at that time my answer was that I took out the bill and showed that it was coated with a magnet. That bill automatically goes everywhere on two conditions. Where it had security, there the dollar goes and, two, where there is a return on investment. No matter whose money, no matter where it comes from, money will come provided these two items exist. You can talk from now until doomsday and if these two items are not there, no money will flow into construction.

With regard to the next item, if this is an improvement, forgive me for this analogy. We are at the bottom doh of the musical notes, doh, re, me, fah, so, la, ti, doh. Until now we were stagnant, frozen, dead completely, but at least we made a move. We did something. The public is aware and the government is now talking about getting the tenants and landlords together to communicate and let each see the other's problem. I am not advocating taking off rent controls overnight, but it must be a trustworthy statement, made not in words but in action. Action can speak only when slowly this built-up pressure is nullified. That is the only way it will work.



Mr. Chairman: Are there any other questions? Thank you, Mr. Tenenbaum, for your appearance before the committee and for your unambivalent views.

The next presentation is from the Hamilton Apartment Owners' Association, Pieter Greidanus. Do you wish to have anyone at the table with you?

Mr. Greidanus: No.

Mr. Chairman: Welcome to the committee.

#### HAMILTON APARTMENT OWNERS' ASSOCIATION

Mr. Greidanus: I am afraid Mr. Tenenbaum will be a hard act to follow. I appreciate the opportunity to be here.

Mr. Taylor: He said that about his predecessor.

Mr. Greidanus: I should have been here for that.

Mr. Chairman: This is the first of many days that the committee has scheduled for public hearings; so you are appearing before the committee when it is still fresh-eyed and bushy-tailed. We urge you to proceed with your presentation.

Mr. Greidanus: I would like to introduce myself. My name is Pieter Greidanus. I am past president of the Hamilton Apartment Owners' Association. I own a fiveplex and I manage some buildings, about 400 units, for an insurance company; so I have both the experience of a small landlord and the management experience that some of the larger owners may be dealing with.

Mr. Chairman: Before you go on, committee members, this is exhibit 64. I think it has been distributed. Thank you for giving us this ahead of time.

Mr. Greidanus: It was no trouble.

As an introduction, the Hamilton Apartment Owners' Association is a voluntary association of landlords and property managers of residential rental accommodation. Our members are from the areas of Hamilton, Burlington, Oakville, Stoney Creek, Ancaster and Dundas and represent the management of approximately 20,000 suites. A number of our members are also members of the Fair Rental Policy Organization of Ontario.

We do not support the self-serving view popularized by the media and certain lawyers representing legal service clinics that landlords and tenants are opposing groups. Tenants were and are customers for whom we provide services in exchange for monetary consideration, as does every other service business in the province. With few exceptions, we were proud of our buildings and did our best to provide good accommodation at a fair price. Unfortunately, 10 years of irrational, politically motivated rent control have reduced profits to a point where most of us have been forced to take one of three courses of action: to sell, to stay within guidelines at the expense of service items or to increase rents above the guidelines in an attempt to stay solvent and maintain the housing stock.

Ten years of rent control have made the patient, the housing industry, very sick. While obviously intended to be politically palatable medicine, Bill 51 treats only the symptoms which have surfaced--poor maintenance, speculative flips and illegal rent increases. In order to be effective, the cause of the problem must be addressed and remedied, even though the medicine may be bitter to swallow. Bill 51 appears to us in Hamilton to be just more Toronto legislation written for Toronto problems. We are encouraged that this committee is going to tour other cities in the province, as we are sure others share our view.

In the discussion that follows, I will generally be using the analogy of the housing industry as a sick patient. Subsection 14(1) says, "There shall be a board known as the Residential Rental Standards Board composed of such number of members as the Lieutenant Governor in Council appoints." The symptom is poor maintenance of some apartment buildings and the general deterioration of housing stock in the province.

The Bill 51 cure is to legislate minimum standards and have municipalities hire standards officers at the taxpayers' expense to punish with fines and zero rent increases landlords who do not comply. The prognosis is poor. The patient will generally turn into a mule and refuse to budge, doing only those minimum items required by law.

The cause was that when rent controls were introduced in 1976, Hamilton had an overbuilt market with vacancies as high as 13 per cent in some areas of the city. As a result, our rents were far below those in Toronto, even though our operating costs were the same. Caught in the squeeze between spiralling inflation, a highly competitive market and low, unrealistic rent increase guidelines, we were forced to cut back in the only areas over which we had any control: repairs, maintenance and superintendents' salaries.

The solution would be an incentive to maintain a building, which is far better than being forced to do so. A realistic statutory increase, together with prompt and equitable treatment of capital expenditures, will encourage landlords to maintain and upgrade their buildings to the mutual benefit of both parties. The standards must be drafted with equal representation from both tenants and landlords to ensure that they are workable.

Clause 14(2)(d) speaks of "methods of providing for adequate communication and consultation between the landlord and the tenants on a timely basis regarding proposed capital expenditures..." These should take the form of a meeting with a rent review administrator when a landlord applies to determine advance treatment of a capital expenditure. When the expenditure maintains or improves the building, it must be considered. Tenants, who have no vested interest in the property and may be transient or particularly miserly or extravagant, should not be allowed to affect or determine the long-range management goals of the property.

Where the occupants of a building continually damage common areas and their own units, the municipality should be empowered to order compliance by the tenant to make restitution for damages. In some buildings it is impossible to maintain decent conditions, and the landlord should not be held liable for noncompliance in these cases.

Under part V, "Rent Registry," subsection 54(1) says, "The minister shall establish and maintain a rent registry for all residential complexes that are subject to this part." The symptom is that in some cases landlords

are asking, and tenants are paying, rents greater than those to which the landlord is legally entitled. The Bill 51 cure seems to be to compel every landlord in the province who owns six or more units to register the actual rent as of July 1, 1985, no later than October 1 of this year, with the under-six group to register at a later date.

To grasp the magnitude of this task, please understand that there are an estimated 1.1 million rental units in the province. The ministry must input eight pieces of information for each one of these units, notify all of the present 1.1 million tenants by mail of the registered rent as well as input and calculate the legal rent of any buildings that have in all sincerity gone to rent review and doublecheck these figures against the registered rents. The process could take years and will spawn a huge bureaucracy.

The prognosis? Incredible. A system such as the one that is proposed is absolutely unwarranted, counterproductive and a tremendous waste of taxpayers' money. A registry such as this will not help any needy tenant or even put one more unit on the market. The chief user of such information will probably be the municipal assessment department. If a prospective tenant really wants to know what the rent was, he merely needs to ask the present tenants what they are paying.

The rent registry cause? Obviously, in a tight Toronto market a few unscrupulous landlords have taken advantage of the situation and charged unconscionable rents. While there may be some instances of illegal rents in Hamilton, there is still enough choice of accommodation that a rent agreed to by a prospective tenant is by no means unconscionable but merely fair value for the unit, as well as necessary for the landlord to continue to stay in business. Indeed, the converse is often true. For various reasons, a great number of landlords, particularly small operators such as myself, do not take every increase they are entitled to.

14:50

The solution would be a requirement that every landlord maintain a list of units, rents and residents' names. This would be available upon request to any prospective tenant who feels inclined to ask and would be far less cumbersome and immensely less costly. The landlord would be required, on a prescribed form similar to a rent increase notice, to advise an applicant of the rent, anniversary date and the name of the person who most recently occupied the unit. The form would bind the landlord to certify that the information was correct and to inform the tenant of his right to verify the rent by contacting the present occupant.

In the event that this committee feels the proposed rent registry will be cost-effective and politically justifiable, I ask that landlords who, for whatever reason, be it market, management or compassionate grounds, have not taken every statutory increase to which they were entitled, be allowed to do so. The bill cannot be seen to penalize honest landlords while legitimizing those who are not so scrupulous.

Where a building has been to rent review in the past, the landlord must be entitled to register the actual rent and the legal rent, which will be verified by the minister in subsection 57(1). Where a building has not been to rent review, the landlord should be entitled to make application on the basis of lease documents proving the rent charged at the time so that the legal registered rent could be calculated from those documents. The landlord may not choose or be able to charge the legal registered rent but certainly should not be penalized for doing so.



Also, in our opinion, the deadline for filing, October 1, 1986, is unrealistic and should be extended to at least December 31, 1986.

Part VI of the bill is "Rent Regulation." The symptoms include a very tight rental housing market with no units being built without government assistance. Units are tied up with artificially low rents being enjoyed by people who can well afford to own a house or a condominium. Needy tenants are still needy. Deteriorating housing stock and near slum conditions are found, particularly in older buildings. Landlords, frustrated by lengthy delays and discretionary decisions from rent review, are branded as criminals for negotiating rent on turnover. Key money, long waiting lists for good buildings and general frustration of tenants looking for a suitable place to live and of landlords wanting to provide accommodation but being unable to do so are also prevalent.

The symptoms are brought on by the medicine, which has been tried in Europe, New York and other cities with disastrous consequences for the patient in every case. The Bill 51 cure is more of the same medicine in larger and stronger doses. However, there is relief in some areas because both the patient and customers are finally being asked where it hurts.

The prognosis is that conditions will have to get worse before they get better. If the balance struck in Bill 51 can be maintained, the housing industry in this province can stay alive a little longer. With time there is hope. The cause, very simply, is that the people of this province were led to believe that rent control was a necessary part of wage and price control to dampen rising inflation in the mid-1970s. Since then, however, it seems to have become a device used by the middle class to create a windfall for itself by using the plight of the poor as an excuse to continue controls.

There is no fast or easy solution for this problem. Unfortunately, it has taken 10 years to get into this mess and will take longer to get out of it. We suggest that new construction must be stimulated by restoring investor confidence. Although politically unpalatable, the best way to do this would be to refrain from doublecrossing people who built after 1976 and are now caught in the rent control net.

The development industry needs a clear signal that residential rental is a good, long-term investment with a fair return. When enough units come on stream, people will once again have a choice of accommodation and landlords will be required to compete for customers, as they do in the commercial and industrial field.

The existing housing stock must be maintained, not by giveaway grants that reward poor management and penalize well-run buildings but by giving a landlord a fair return on his investment and reasonable statutory increases, not only to cover the increase in operating costs but also to encourage him to maintain his building.

Some mention is made in subsection 88(1) of the bill of "chronically depressed rent" where "the rent is 20 per cent below the gross potential rent for residential complexes that are comparable to the residential complex...and...the rate of return on the landlord's equity...is less than 10 per cent."

We submit that this should read "or...the rate of return on the landlord's equity...is less than 10 per cent." We submit that any landlord who has owned a building for a lengthy period--say 10 years--and still has a rate of return of less than 10 per cent, has chronically depressed rents.

In conclusion, we recognize that part VI deals with some very important principles for both landlords and tenants. Equalization of rents for similar units, recognition of an agreement between landlord and tenant for capital expenditure in only one unit and shortening delays in hearing applications by informal meetings with predetermination of capital expenditure treatment are but a few examples.

We applaud the efforts of the Rent Review Advisory Committee and trust that the standing committee on resources development, of which you are members, will respect the balance that has been struck. Thank you for your attention in this matter. We very much appreciate the opportunity to be able to make a presentation on this issue, which affects not only our livelihood, but also the quality of housing for all our children in the future.

Mr. Chairman: Thank you, Mr. Greidanus. We particularly appreciate the specific way in which you address the bill.

Mr. Greidanus: I must apologize that the paper you have in front of you is still a rough draft. I was expecting to come Wednesday, so it does not really have the final polish on it.

Mr. Chairman: I realize that. I think most committee members understand that we had to reschedule people, so we appreciate the co-operation we receive from people to alter their own schedules to be here. Are there any questions of Mr. Greidanus?

Mr. Reville: Thank you for your presentation. I too appreciate how specific you were. I am puzzled by one thing, though. You say the maintenance board will not work very well, the rent registry is unwarranted, rent regulation will make matters worse and we should not bring post-1975 buildings into rent control. Then you say we should respect the delicate balance that was struck by the Rent Review Advisory Committee, and there seems to be an inherent contradiction in that. I wonder whether you can help us.

Mr. Greidanus: I am aware of the political reality of Bill 51 and rent control. I understand that rent control is like a little bit of income tax; once you have it, it really never goes away.

I was trying to draw more extreme examples, I suppose, to support the landlords' position within Bill 51. It would be very nice to see the things that I mentioned occur. I think the rent registry is unwarranted. I would not say it is ineffective, but I think the number of people who have a problem with not being able to find out what the rent does not warrant the size of the system you are proposing.

It is the same with post-1976 buildings. I understand there was an agreement made between the Liberals and the New Democratic Party to bring those buildings in. Politically, I realize that you are more or less going to go ahead with that, but I am using that as an example. A good, clear signal to the development industry would be necessary to stimulate more housing without a whole lot of government subsidy. That would be one way of doing it; I am not sure how else you could. I am aware of the political realities of the situation as well as the practical aspects of it.

Mr. Taylor: On that point, do I gather from what you are saying that you do not think this legislation is really going to work to accomplish the goals of more affordable housing for people?

Mr. Greidanus: It is a good first step--let us put it that way--compared to what we have been facing with rent review, particularly the discretionary nature of the commissioners. From our standpoint, we play the game to the best of our ability. We document all our costs, we go out and make capital expenditures and borrow money to do major changes that are required, only to have a commissioner say, "I think the interest rate is going to go down next year; therefore, we are going to give you only X number of dollars rather than what you are asking for."

As well, we had a statutory increase of around six per cent when inflation was 12 per cent. Finally, it got down to around six per cent as well, so we could afford to redecorate some hallways, change some carpets and that type of thing, only to have another election come up and be arbitrarily knocked down to four per cent. I like the idea of having the statutory increase tied to some sort of landlord cost.

I am not saying it will not work. I am saying it is a very good first step, but I am also saying that I think more changes will be necessary before we can really get some choice again for the people in the province.

Mr. Taylor: It disturbs me somewhat that you called it "playing the game."

Mr. Greidanus: Exactly.

15:00

Mr. Taylor: You have identified the process as a game, and surely that should not be the object of the exercise. You can comment on that if you like.

There is another point that disturbs me. I was convinced that the legislation came forward as a result of a negotiated settlement between the landlords and the tenants. In other words, if we want to talk about a child of a marriage, then this is the child, and it is very much a legitimate child, loved by both parents, the landlords and the tenants. I have not heard that this afternoon as yet. We have got people objecting to the children and I do not think loving parents should talk that way about their children. I would appreciate some comment on that. Maybe it is the negotiations; we heard that from Mr. Krehm too.

The third thing I ask you to comment on is this. You identified the problem as a Toronto problem back in 1975. I recollect that election and the Conservative response to the New Democratic platform in terms of rent controls. You identified it not as a Hamilton problem but as a Toronto problem, and I suspect if you went around Ontario, as this committee proposes to do, the problem may not be identified as similar in all regions. If that is so--and you have said it is so as between Hamilton and Toronto--would you comment on the right of a municipality to opt out of the legislation as an alternative, so you put that on a local basis?

Mr. Greidanus: If I can go back to the very first comment, which was about playing the game, playing the game would mean actually staying within the guidelines and going to rent review rather than saying, "The heck with this" and not following the bill at all or, in other words, saying, "I choose to opt out of rent control and to increase the rents illegally." On my own five units, I did have a number of increased expenses and interest rates and everything else went up. I did go to rent review and we did get a rent



increase. That is what I consider playing the game, whereas other people may have decided not to bother with it at all. I did not mean it as a game to see what we could get. I meant it as actually abiding by the rules and following the proper procedure.

I am sorry, I did not take notes. The second question dealt with?

Mr. Taylor: The marriage between the landlords and the tenants. I thought you would be embracing the child more fondly than you have embraced this legislation.

Mr. Greidanus: Again, as I say, I consider the legislation to be a very good first step but I do not really see it as being the ultimate solution to looking after the problems we face because, as far as I can see, we need more rental units on the market. We need to free up units. I can tell you about some of my tenants in high-rise buildings who spend maybe four months per year in Canada and spend the other eight months in Florida. They just pay the rent on the thing and it sits there empty; no kidding. As far as I am concerned, those types of people could well afford condominiums and free up the building for kids getting married and stuff. There are all sorts of people looking for apartments. They are just sitting there empty and these people have every right to be there. They are paying \$330 a month for a one-bedroom apartment and around \$400 for a two-bedroom apartment. They are very well maintained buildings, an excellent place to live, but it is just going to waste.

If the person renting the apartment were subsidized rather than the unit itself, I think a lot of people would say, "This is costing me too much money; I am going to do something else," and they would buy condominiums or what have you. However, when the rent is so low that it does not even represent the interest portion on a mortgage on a condominium, people are just going to stay put. I am not saying it is good or bad, but that is the situation.

Mr. Taylor: You have said so far that the system has built a whole new service industry, presumably in terms of administering it. In your answer to this you are saying the net is cast too wide. I would like you to comment on addressing the picture in a narrower geographical sense by giving local autonomy the right to determine it.

Mr. Greidanus: I think it would be a very good idea to have the local people address it, possibly at a given vacancy level, because municipalities tend to follow an example set by the provincial government. I am not so naïve as to think there should not be any anti-gouging legislation at all, but it would be a good thing if it were addressed on a municipality-type basis so that when the vacancy rate reached 1.5 per cent or whatever in Hamilton, it could opt to move gradually out of rent controls.

When rent controls came in in 1976, we were already giving away three months' rent, TVs and everything else to try to entice tenants, and once we had them we gave them service such as you would not believe to keep them there. It got desperate when the winter months came and you had to pay the heating bill somehow. When rent controls came along, I will not say we were devastated, but we were caught extremely short because it was overbuilt. I hate to admit it but in a way rent control has been good for us because nothing new was built after that and gradually the vacancy was absorbed. Rents are still very low even though the costs are high, but at least we do not have to worry about where we are going to get tenants and that kind of thing.

Until we got to the point where inflation was 12 per cent but rent increases were only six per cent, I think everybody was quite content with it. We were plugging along. Now it is at a point where it is artificially low. The costs are high and the statutory increases are not covering them. If a municipality were empowered to decide whether rent control was really needed, that would make a lot of us in the province very happy. I am not sure about the Toronto people, but it would the rest of us.

Mr. Taylor: There are two approaches. You could have the legislation in place so that a municipality has the right to opt in or you could have the legislation cover every municipality and say they have the right to opt out.

Mr. Greidanus: It sounds like a great idea.

Mr. Chairman: If there are no other questions, we thank you very much for appearing before the committee.

The next presentation is not the one on the schedule of witnesses. It is Arthur Weisz.

#### ARTHUR WEISZ

Mr. Weisz: My name is Arthur Weisz. I am a Hamilton property manager. I manage quite a few units in Hamilton. I decided not to give a brief to this very interesting group. I would like to have more of a question period. I know everybody would like to know what has been happening on the Hamilton scene in the past 35 years. I have been in this business for a long time.

Briefly, I will say a few words and then I would very much appreciate it if everybody would ask some questions because things have been said over and over many times. From a practical point of view, rent controls became a need in Toronto in 1976 because the market became very tight. The government decided to impose rent controls on the whole province.

The previous speaker has already said that there was a large vacancy rate in Hamilton in 1976. The rental market was very depressed, at least \$100 lower per unit compared to Toronto. When rent control came in in 1976, it allowed six per cent or eight per cent and now it is four per cent. The base is so low that, really and truly, looking at the rental base in Hamilton, providing any future construction is, unfortunately, unlikely.

Perhaps I might mention a few things about what the problem is to give you some idea of what is happening in Hamilton. This is from a letter addressed to me from the building commissioner of the city of Hamilton.

15:10

In 1970, Hamilton built 2,273 units, including single-family and apartment buildings. In 1971, there were 3,723 units; in 1972, 3,621 units; in 1973, 3,362 units; in 1974, 3,873 units; in 1975, 3,483 units; in 1976--under rent control--1,351 units; in 1977, 1,952 units; in 1978, 504 units, including single-family, apartments and everything. It also went down in 1979 to 350 units, about 10 per cent of what was built in 1974 or 1973.

This certainly illustrates a very drastic situation in the marketplace. What happened in Hamilton is happening in many other communities. Of two

buildings standing next to each other, one is well financed, well occupied and has not been sold or refinanced in the past 10 years. Tenants are paying \$100 less rent per unit than in the other building. This is happening, unfortunately, in many other cases.

Originally, rent control was to provide reasonable rents to people who could not afford higher rents. The opposite is happening. I can illustrate it over and over. The people who need the help are paying the highest rents and the people who can stand on their own feet are paying the lowest rents. I am sure the same thing is happening in Toronto too in some cases.

There are many things that we can talk about with regard to rent control problems. It is really and truly a difficult thing to observe and to correct. The new idea goes a little in the right direction, but the problem will not be solved. When you cannot get the private sector to start to build units that are not subsidized by the government, it will take time, but we have to do something.

The average Canadian is paying approximately 25 per cent of his earnings for housing. In some cases, it is 50 per cent, but let us say the average is 25 per cent to 28 per cent. Today in Hamilton, some apartment dwellers pay five per cent or three per cent of their income on rent. The units rented to those people should be freed from the market. Let them pay the market rent. We will develop a situation where perhaps some building can be possible. Until you have 90 per cent, 95 per cent, 98 per cent or 99 per cent of the units in Hamilton under rent control, nobody can build a building. It is physically impossible because you are competing with the unit that cost \$350 and your cost to build it is \$700.

Some people are living in very luxurious, nice buildings and paying much less rent. Is there anyone in this group who knows Hamilton? Let us say that 100 Bay Street in Hamilton is one of the finest buildings. One pays less rent there than in the worst building in town. Why? The building was never sold. The original people are living there. They are maintaining their position and, may I say, do not want it.

We go to rent control from time to time when we need more than the allowed increases. We find that the people who are in the medium and lower income groups understand that we need more money to maintain their buildings. The higher income group enjoying these low rents is using lawyers and accountants and fighting the situation. They know how to do it and they do it very successfully. That group should not get the benefit that it has been enjoying in the past 10 years. When their rent is less than 25 per cent of their income, those units should be off rent control until these people leave there. They will move or be willing to pay.

The next problem that I see is an economic problem. Every income is taxable in this province. Even an old age pension is taxable. That benefit is tax-free and the province and the federal government are paying their share of the loss of taxing when the building will receive the money.

Let us say a tenant is paying \$400 a month and it should be \$600. He gets \$2,400 tax-free a year. When that money will come to the building, part of the money will be taxable because the building income is taxable and partly that industry will get an additional income. He can invest it and do something. The group that is fighting for rent controls more strongly than anybody else gets the benefit, and the buildings and the governments are not



getting it. It costs money to maintain it. It costs a lot of money to provide subsidies, nonprofit housing. There is a tremendous amount of commitment.

I figured it out for a month. For a nonprofit, one-bedroom senior citizen unit, with 35-year amortization, the building could afford only two per cent, and the government pays the difference. It will cost close to \$1 million for each unit, because you are borrowing not only the capital but also the interest.

If you figure it out on a \$40,000 unit, with interest on interest for 35 years, you will have a shocking result. When you add interest to interest, what happens is the government has \$1.2 million cash, somebody wants to build a nonprofit building and the government will say: "Here is \$1.2 million. We have the money and we want to be nice, but you are borrowing." You are borrowing the capital and the interest. When you figure that out, in 35 years this amount is close to \$1 million for a single senior citizen unit.

That is what I want to say today. Does anybody have any questions?

Mr. Chairman: Do you know what the vacancy rate is in Hamilton now?

Mr. Weisz: Actually, our vacancy rate is very low, but at the same time there is not any drastic shortage. In Hamilton, second-floor and third-floor units sitting on commercial locations are empty. People do not want to do anything with them because it is not worth doing anything. The province is trying to do something now, but even that help is sometimes not enough to free up these units. The units are neglected, they have not been used for the past 20 years and they are sitting there. The rent they can get in the Hamilton market, even for a new unit, is impossible, because the rent-controlled units are 95 per cent or 98 per cent or almost 100 per cent.

Mr. Chairman: You gave us figures detailing the number of units built in Hamilton between 1970 and 1979. Do you have the numbers after 1979 to show what has happened in the past five or six years?

Mr. Weisz: The last number I have is 1980. In 1971, 1972 and 1973, it was almost the same. Now we are getting a little bit more overheated market, but that has nothing to do with an apartment shortage. I will be glad to leave this sheet with you.

Mr. Pierce: You used the figure of 25 per cent of the income of an individual. Are you referring to the combined incomes where there are two wage earners in a family?

Mr. Weisz: I would say so, yes.

In the old days, a family occupant with two or three children paid \$60,000 or \$70,000 for a house and could get an 85 per cent or 90 per cent mortgage. Who is helping them? When you look at it realistically, the need for help to live of a young couple who are both working, or even a senior citizen who gets a pension, is much less than a family with three children, but nobody cares about them.

Sometimes they have a hard time getting a mortgage because they do not qualify for it. Their housing costs in some cases are 40 per cent and 50 per cent. When I mentioned 25 per cent, that is very liberal, but I will go even further and make it 30 per cent. I do not think people are to be housed for only five per cent, or in some cases even less.

Mr. Pierce: Has your experience in the Hamilton market been that there are people in apartment buildings who could afford to be in single-family dwellings?

15:20

Mr. Weisz: If you were to come to one of the finest buildings under rent controls in Hamilton, you would find more Cadillacs and more foreign-built cars than the most expensive situation in the city of Hamilton. Unfortunately, this group is well qualified and knows how to do it. In the long run, even rent controls did not help them. Ten years ago they sold their house for \$80,000 because, they figured, "Why should we not live in a \$250 or \$300 apartment?" They invested their money and they got a fair return on their money, especially when interest rates were very high. However, in the long run, unfortunately rent controls indirectly did not help them because that house is worth \$160,000 today and even with government help, they are not happy.

I say to the minister that even subsidized housing should be for a limited time, except in some cases where there is sickness or an unfortunate family situation. We are managing some subsidized housing. The rent is \$200 a month and increases are very small, but when you give them notice because their income has become \$35,000, they cannot understand it. There should be a time limit. I do not care what the income is, it should be checked each year. There should be a maximum time, a limited time for subsidized housing for a family of working people such as six years, five years or four years. It should not be given to them for ever, because it takes incentive away from these people.

When you give them notice when their incomes become very high, they do not understand. These privileges become a built-in security for their living standard. That is my comment. I would like to see a working family greatly subsidized at the beginning to let them save some money, but let them know that the subsidy is not for them and their children and their grandchildren. It should not be a subsidized situation for ever. You would be indirectly helping these people.

Mr. Pierce: Is there a shortage of affordable housing in Hamilton?

Mr. Weisz: Yes.

Mr. Pierce: Are people at low-income levels not able to get into apartment buildings?

Mr. Weisz: That is correct.

Mr. Pierce: Of course, some of the reason for that is that people are living in apartment buildings at depressed rents who should not be there.

Mr. Weisz: That is correct.

Mr. Davis: I think I heard you say in your statement that you believe Bill 51 in its present form will not encourage investment in building in this province. Is that correct?

Mr. Weisz: Yes.

Mr. Davis: It seems to me that one or two of the individuals who have come before the committee have indicated that Bill 51 will not encourage the kind of development that has been--

Mr. Weisz: May I interrupt for a minute? Encourage, but physically it is impossible. Physically 98 per cent of the existing apartment units are under rent controls in Hamilton and the rent for a one-bedroom unit is approximately \$300 and for a two-bedroom unit \$375 today. To produce a new unit will cost a minimum of \$750. There has to be a more practical attitude. Rent compared to income would be one item, and you would have maybe 20 or 30 per cent of the units out of rent controls. That would rent, not for \$400 but for \$500. You would come closer to a realistic figure. Rent controls could only be corrected--I am not suggesting for a minute that rent controls should be off tomorrow, but we should find some way to deal with the group that gets this benefit unfairly and is accustomed to it--if the Liberal government, your ministry, comes up with this idea and brings it to the people at a logical level, you will be the most popular minister in Ontario.

Mr. Taylor: There is your chance.

Mr. Weisz: Do you not think so? Why should a single-family owner pay 40 or 50 per cent of his income for housing when someone pays five? I have people living in \$400 units with an income of \$100,000. Does that make sense? That unit should not be kept in rental, because somebody who should not get rental housing is using it.

Mr. Davis: Further to my question, I was wondering if the minister would comment on why he believes Bill 51 will encourage development, as I understood him to say in the House, when two developers have come before us to say it will not.

Hon. Mr. Curling: Glad to do so, Mr. Davis. They also said, as you will have noticed, that it is an environment in which nothing can be settled overnight. As well, one of the things the bill has done is set an environment of confidence in which they will be treated fairly.

The intent of Bill 51 is to identify the issues and correct some of the problems there. Its intent is to treat landlords fairly and to recognize the fact that there is a rate of return. As well, its intent is to give protection to tenants, not just by treating some tenants here and there, but by seeking protection for all tenants. The tenant and landlord advisory committees are fair in that sense.

If we set the right environment, there will be confidence. We have also said that this will not solve all our problems. If the process does not work, we intend to look at it again, adjust it accordingly and move towards making it work.

Mr. Davis: I would like to follow that line, if I could, because the minister has now made a couple of statements. You indicated that if it does not work, you will make adjustments. Where do you intend to make those adjustments if it does not work?

Hon. Mr. Curling: You think I am a prophet to say it now. I am sorry; I am confident that it will lead us towards a workable solution. We are saying that we will look at it, and where it does not work, we will then make adjustments accordingly.



Mr. Davis: I think it is fair that you are going to examine it; I applaud you. If it does not work, it would seem to me that, as the Minister of Housing, you have only two options: either you increase rents or remove rent control. Which one would you do?

Hon. Mr. Curling: We are looking at Bill 51 and at its many facets. If a part of it does not work, that is the part we will look at. I would not be in a position today to tell you that we are going to start adjusting here and there in anticipation.

Mr. Chairman: I would never want to restrict lively exchanges or even ideological ones between members and the minister. On the other hand, we do have witnesses before the committee.

Mr. Davis: With all due respect, Mr. Weisz and one of the gentlemen before Mr. Tenenbaum indicated that as builders they would find it difficult to build in this province. The minister has sat there again today and indicated that they will build. I am asking him how he makes the decision that there will be building when two of the gentlemen have told us they will not be building because of rent control factors. In fact, one of them is investing in Edmonton.

I would like to ask Mr. Weisz a second question, if I could. The minister and his staff have said that the process of Bill 51 involves what they call the trickle-down theory, that the bill will encourage you to build new apartments, although you say it will not.

Those particular apartments will have absolutely no impact upon the thousands of tenants who now find it difficult to get or afford accommodation. Because you are creating new units in the upper echelon, people who are paying, say, \$600 will move to an apartment that costs \$900. According to the trickle-down theory, there should be accommodations at the lower level when that works out. Do you believe this?

15:30

Mr. Weisz: May I say this in all fairness? This idea may work in Toronto, at St. Clair Avenue and Spadina Road. I will give you an illustration because I recently looked at the Toronto market too.

At 400 Walmer Road--one of the nicest locations in this city--there are two beautiful buildings under rent control right now. This is one of the buildings where, when you drive into the garage, there are more expensive cars there than anywhere else. I know the building. My daughter lives there. She is a doctor and my son-in-law is a lawyer. The building is going to become a condominium and they are asking \$100,000 per unit. If you figure it out, the rents would be more than \$2,000 a month. They are now paying \$500 or \$600 a month.

Even in Toronto, where you have that building under rent control at \$500 a month and you have a building next door at \$1,000 a month, I think the shortage is so great that it may be possible to rent a unit for \$1,000 per month and you create some money. But in Hamilton, when a unit is \$500 and is located next to a \$400 one, forget it. Today, I could not find tenants for a \$750 per month penthouse.

I am sorry to interrupt this. I never could understand why the \$750 limit was taken off rent control. That is beyond me. I could give you an

illustration. In Hamilton, we manage more than 8,000 units. We do not have one unit which costs more than \$750. In Toronto, the rent control on units renting for less than \$750 did not apply to those two buildings at Spadina and St. Clair two or three years ago. Some people in this room may know the buildings. The rent went from \$750 to \$1,200 a unit and nobody moved out.

Why should Hamilton work on the same principle as Toronto? In Toronto, it is possible--and I feel very strongly possible--but the same idea will not work in Hamilton and we have to look for other possibilities; what is again rental income, convert to rent, equalizing rent on buildings that have fallen way behind. Why should a poor family pay \$450 or \$500 in Hamilton for a third-grade building when another group is paying \$400 rent on a unit which could be brought up to \$700? It may not have to be done for the whole building, but it could be done for only part of the building or 50 per cent. Then you will encourage some type of adjustment.

In Hamilton, London and Guelph, you have to do something else other than hoping that this whole miracle idea--I still maintain that even in Toronto, if you adopted my recommendation, you would create a lot of changes in the marketplace. A man who has an income of \$100,000 will pay \$8,000, \$10,000 or \$12,000 on rent. Then you immediately create the next possibility that the building could be built, because he is not protected so strongly any more.

Mr. Davis: My final supplementary is to the minister. Can you provide or spend a few moments explaining to us the type of information or the statistics that you considered in your understanding and supporting the trickle-down theory? As I understand the trickle-down theory, you have stated and you maintain that the trickle-down theory will create vacancies in the lower end and therefore will deal with the need for housing.

We have heard from some landlords and they have indicated--and Mr. Weisz has indicated--that in certain sectors of this province, it will hardly work. Can you tell us what went into your thinking that enabled you to support this trickle-down theory and believe in it?

Hon. Mr. Curling: You are talking about vacancy rates, statistics and some data--

Mr. Davis: How did you arrive at that? How did you decide that you supported this theory?

Hon. Mr. Curling: If you want, the staff will tell you about the statistics they have used and how they have come to some of those conclusions about the trickle-down theory.

Mr. Davis: Do you believe in the trickle-down theory?

Hon. Mr. Curling: Yes, I believe in the trickle-down theory. I do not think it is the only consideration. Whatever phrase you want to use, trickle down or trickle up and all this fancy type of thing, we say that if you build more, there is more available. The supplies are there and the price will go down. We can always play all kinds of games around it and call it all types of names.

Mr. Chairman: That was a supplement.

Mr. Davis: Yes. It was a supplement to you, Mr. Chairman. Perhaps if we had that material--I apologize; I have not seen it. If not, Mr. Chairman,

do you think the minister would provide it for us so that we, as a committee, can determine how the minister arrived at his support of the trickle-down theory and how he believes that Bill 51 will encourage building, will create vacancies and therefore will deal with the crises in housing that we find?

Mr. Chairman: The request is to the ministry to provide information on something no one has, the trickle-down theory as it applies to the housing market. The best we can do is leave that request with the ministry to see what it can bring us.

Mr. Davis: That is fine.

Mr. Weisz: Just to emphasize the problem, there were all kinds of proposals from Canada Mortgage and Housing Corp. to build family units in Hamilton. The subsidy was \$10,000 per unit, interest-free for 15 years, yet not one building was built even with that formula. Even subsidizing the rent by more than \$125 a month was not enough to create a market situation so that something was built in Hamilton. We built a few nonprofit units, but nothing even in this. Burlington has a building under construction now because the rental market in Burlington is \$150 higher than in Hamilton. That, plus the \$125 subsidy, is creating some possibilities to build something. In Toronto there are all kinds of units under this subsidy, but we did not build one unit.

Mr. Reville: I am interested in some of your experience in Hamilton. I understand the average rent for a one-bedroom unit in Hamilton is \$346 a month. I think this is a fairly recent figure, provided by CMHC.

Mr. Weisz: Correct. Fine, I go along with this.

Mr. Reville: There is a very low vacancy rate of about 0.7 per cent as late as April. Notwithstanding that, you said you had difficulty renting a \$700-a-month unit. Would I be correct in assuming it would cost at least \$700 a month to put a new one-bedroom unit on line in Hamilton?

Mr. Weisz: Yes.

Mr. Reville: Can you give us any idea of the kind of market you think there would be for--

Mr. Weisz: Zero. Absolutely zero.

Mr. Reville: That is a good answer.

Mr. Weisz: If you were to give me a \$300-a-month subsidy, I would be willing to think about it because I would get \$100 or \$75, but this figure of \$345 a unit you mention is not realistic for the good buildings. Some of the good buildings are renting for \$300 and some of the bad buildings are renting for \$400. That was created by rent control.

Mr. Reville: Right. There is certainly no way of knowing whether buildings are renting--

Mr. Weisz: Correct.

Mr. Reville: This is an average.

Mr. Taylor: Could you clarify that? There was an anticipation of the question, and so I was not clear on the question we got the answer to or which



answer was to which question. I have two possibilities there. Could you clarify for me what the question was?

Mr. Chairman: I do not know. I do not understand your question.

Mr. Taylor: My question is that I want to know what the question was so that I can understand the answer.

Mr. Chairman: Maybe Mr. Reville can clarify it.

Mr. Taylor: He had not finished his question when he got the answer to it.

Mr. Reville: Which answer did you hear?

Mr. Chairman: Perhaps you could repeat the question.

Mr. Reville: I asked whether there was a market for a \$700-a-month apartment in Hamilton and the gentleman said no. I asked him whether it would cost \$700 a month to put a new unit on line, and the gentleman said yes. My third question is whether there would be any incentive for anyone to build a unit in Hamilton--

Mr. Weisz: Without any subsidies greater than the subsidies offered at present by CMHC, absolutely no. There is no reason anybody would build anything. A few condominiums will go up on a smaller scale, but they certainly will not solve the problems of the people looking for them. I maintain we should look at the rent control situation from an income point of view. You are creating some movement. Take this unit off rent control the minute you find someone is abusing the unit and that person's rent is only five per cent of income--I say 25 per cent; use a much higher figure, say 15 per cent or 20 per cent--that unit should not be a rent control unit any more. Then the rent on these units would slowly move up to a base. Then somebody may be encouraged to build a unit.

When a \$330 unit in a nice building could be \$500 or \$550 in a building that is not under rent control, the person who is using it should pay the market rent. I think that is possible. I feel strongly that the minister should question his department on this and find out whether some kind of scaling-up situation is possible. That would create a climate where new buildings could be built.

May I ask the question--and I do not like to ask the minister--why should it work? Give me one reason it should work.

15:40

Hon. Mr. Curling: I would have to get your question properly because I do not understand it. Why should what work?

Mr. Weisz: At the present time, we have a four per cent rent ceiling.

Hon. Mr. Curling: Yes.

Mr. Weisz: Next year we will go from four per cent to 5.5 per cent because of inflation. What are we doing here to make that idea work? Nothing. Really and truly, there are no ingredients--

Hon. Mr. Curling: You are asking why I feel this will work?

Mr. Weisz: Yes.

Hon. Mr. Curling: I think built into that is a rate of return.

Mr. Weisz: No, it is not, not for buildings prior to 1976. That is the majority of the buildings. Toronto has some buildings from after 1976. Hamilton does not have any. It is the idea that they are doing something in Toronto. They are doing nothing in Hamilton or for the more than one million units in the province.

Mr. Chairman: Mr. Reville, did you have any further questions?

Mr. Reville: Just to make sure we understand, you are saying that as long as some rents are held low by the rent regulation--

Mr. Weisz: No, all rents.

Mr. Reville: Some are held lower than others, as you understand, by this bill.

Mr. Weisz: Correct.

Mr. Reville: There would be no incentive for somebody to create a new unit. That is what you said to the minister.

Mr. Weisz: He cannot create. It is not because he does not want to create; physically, it will not be possible to create any units.

Mr. Reville: Let me ask one final question. Is there any way to create an atmosphere where people are going to build and keep rent control at the same time?

Mr. Weisz: If you see a person in a higher-income bracket living in a rent-controlled building, then the minute it is established his rent is much lower than it should be, his unit should be freed. Then we are creating an in-between group of units where the rent is not \$330 but will be \$500. From that point on, something could happen.

Mr. Reville: Your idea is to means-test everybody's income. If a person could afford to pay more, his unit would escape from rent review until he reached some kind of level of income.

Mr. Weisz: Correct.

Mr. Reville: I understand your idea. Thank you.

Ms. E. J. Smith: I assume the advisory committee that worked on this bill must have examined the kind of proposal you are suggesting. I am assuming it must have examined and rejected the geared-to-income rent control situation you have suggested.

Basically, we are dealing with a report that came from the double group of landlords and tenants. You made a statement that you realize rent controls cannot disappear right away. Mr. Greidanus also suggested he was not totally happy with the situation, but he did say, as did Mr. Grenier from the committee, that at this time in history he is most anxious that the bill

should be passed--you did not say "most anxious," Mr. Greidanus; Mr. Grenier did--and that we need it right away because something must be done now and that is what must be done.

In that sort of vein, and granted this bill was not written just to please landlords or just to please tenants, but given the consensus they have reached, would you also agree with the conclusion that in these circumstances today we should pass this bill as they have asked?

Mr. Weisz: Yes.

Ms. E. J. Smith: Thank you.

Mr. Weisz: With the understanding that we should not relax and say we achieved something. What we are achieving may be in Toronto--

Ms. E. J. Smith: We must keep working on it.

Mr. Weisz: That is right.

Ms. E. J. Smith: I appreciate that.

Mr. Davis: I have two questions. Mr. Weisz, why did you want the bill passed right away? What is in the bill for you?

Mr. Weisz: To be honest with you, I looked at this carefully and I hope the end result will be quick and will take away the frustration between landlords or owners and tenants.

I am saying, in all fairness, that in the last 10 years a tremendous amount of effort has been put into rent controls--I am not saying fighting--just to eliminate rent controls. The whole idea in 1976 was that price and wage controls came in with rent controls. Mr. Handelman--I do not remember his name--resigned because that promise was not fulfilled. Rent control became unfortunate, really impossible.

I feel sorry for the minister, but he is ending up with this unfortunate situation. The problem was created in the last 10 years, not today. But the longer we have these problems on our shoulders and the longer we have 95 or 98 per cent of the units in Hamilton, London or Kitchener, not in Toronto--it will be interesting to find out, and the minister should have this information, how great is the percentage under rent control in Hamilton and how great is the percentage in Toronto. You may find that Toronto is only 75 per cent and Hamilton is 99 per cent. We should slowly create in the province a higher percentage of non-rent-controlled units, because the market will not create them for us.

I am not here for a personal gain. I am here to advise this group a little bit on what should be done. Unfortunately, rent controls not only made it bad for the owners, they also created some tremendous (inaudible). If you say to General Motors tomorrow, "You can charge only \$10,000 for a car, but nobody else can build any more in Canada," they will kiss your hand. This is what you did.

Mr. Davis: Do you believe as a builder that the proposed Bill 51 gives you a fair return on your investment?

Mr. Weisz: No. Only (inaudible) after 1976, (inaudible), and that is the (inaudible) what we had.



Mr. Davis: I understood you to say that it costs \$750 to put a unit on stream, whether in Hamilton or in Toronto.

Mr. Weisz: Toronto will cost maybe \$800 because the land cost is high, but production costs are the same.

Mr. Davis: Would you concur that the building we will see, if any, will occur in large metropolitan areas, such as Toronto, Ottawa and maybe parts of the Golden Horseshoe, rather than in jurisdictions such as Guelph or Hamilton because of the cost factor of putting a new building on stream, the rent controls and your return?

Mr. Weisz: Yes, I do.

Mr. Davis: Thank you.

It might be very partisan to suggest that the process of Bill 51 is simply to put on stream, from the government's point of view, apartment buildings in the high-density areas for the following election, but one would not want to suggest that at all. It is interesting, as has been pointed out to us, that in some of the areas where there is a housing crisis, the developers believe this bill will not encourage them to build, and I think that is important.

Mr. Chairman: Do not ever be embarrassed about being engaged in a highly partisan process, Mr. Davis.

Mr. Taylor: Could you clarify this? I understood from Mr. Davis's question and your response that this bill did not assure an apartment owner of a fair return on his investment for buildings prior to 1976. Is that correct?

Mr. Weisz: No change.

Mr. Taylor: Does it then ensure a fair return on an apartment owner's investment for post-1976 buildings?

Mr. Weisz: Yes.

Mr. Taylor: It does. Then you finished saying that nobody is going to build because he cannot rent in Hamilton.

Mr. Weisz: You have to look at it. In Toronto, maybe 20 per cent of the existing buildings were built after 1976; Hamilton builds nothing.

The member is right: Toronto may create a little activity, because these people will get it eventually. After 1976 there was no restriction. Why should even Toronto create anything? You made it harder to fight against it. The developers have been fighting for the bill since 1976, because you are restricting them. Now you say, "You can make only 10 per cent more." Before it was open; he was able to charge anything. There was no rent control.

15:50

Even in this item, I do not think they knew whether they would create anything. In Hamilton, we have to go for a whole better way to create something in the middle between the rent-controlled cost, which is \$335 for a one-bedroom unit, and an actual cost of \$700. Something should happen.

The people who can afford it should not be on government subsidies. When we lose \$100 in income, the government loses \$50, because there is no tax paid, and these people are getting this money tax-free. When we can create something such as a layer between rent controlled and not controlled--because we have no unit that is not controlled--that is a unique Hamilton problem.

Unfortunately, for the man who is paying 35 per cent or 40 per cent of his income for housing, his tax dollar is supporting that whole idea. That is wrong. His tax dollar should not pay for a rent control office or for maintaining a system such as this.

Gentlemen, I have said enough about this.

Ms. E. J. Smith: Following up on Mr. Taylor's point and to clarify a bit, and realizing the very different position of landlords of existing housing, you were asking about the new money coming in. You implied that you felt 10 per cent was a reasonable return on investment for new input. Talking only about new money coming in, it would seem at least possible that some people will come in at this new fair rate.

Mr. Weisz: May I say to you that 10 per cent return on a new cost is impossible. It will not be there. You will have a 100 per cent loss, not a 10 per cent gain.

Mr. Reville: There is no market in it.

Mr. Chairman: Mr. Weisz, thank you for your presentation.

Mr. Weisz: Thank you very much. I am sorry to take so much time, but may I say this to you? I am willing to start to build 100 or 200 units in Hamilton tomorrow morning when you guarantee me 10 per cent return on my equity. Today tenants will pay \$400; the government pays \$500.

Mr. Pierce: That guarantees you 10 per cent plus one, does it not?

Mr. Chairman: Thank you, Mr. Weisz.

Interjection: Our Canada bond plus one.

Mr. Pierce: Yes. It is guaranteed. You can start building any time. The guarantees are in the bill.

Mr. Reville: If you have a 100 per cent vacancy rate, you are a nomad.

Mr. Chairman: The next presentation is from Kathryn Catlin. Is she here? Have a seat. Welcome to the committee.

#### KATHRYN CATLIN

Mrs. Catlin: Good afternoon. I am also from Hamilton. I am here this afternoon to give you a little history of my personal experience. I have glanced through the bill very quickly. I am a member of the Fair Rental Policy Organization. There are many ways to attack this animal, and none of them is very pleasant.

I have had the pleasure of working for the crown and working in private enterprise. I can guarantee you I will never go back to work for the crown--no offence intended. It has strictly to do with property management.

The situation I took on in private enterprise is where the crown had--and I am going to use the word intentionally--depressed the rents in the property I was in charge of, which made it very difficult to bring it into a private enterprise situation and make those buildings competitive, apart from making any money, as they have not made any money in five years of operation.

It is a very sad thing when we discuss chronically depressed rents, property maintenance standards and every aspect of the industry. In my opinion, the industry is dying a miserable death. Bill 51 is not going to help it, although the bill is not such a bad omen. I believe it is a genuine first step and is something that should be continued and expanded upon.

Basically, we have had a great number of problems with the rent control system, time being one of our biggest. We have found when we have made application to the commission for rent increases that it has taken upwards of a year to have a hearing scheduled, a hearing to take place, not necessarily to have an order issued. In that period of time, we find ourselves in a back-to-back review situation where we have no choice but to guess at rent increases, because we do not have an answer for the first 12 months of operation. We have to guess at a rent increase and then guess a second time for a proposed increase for the next year of operation.

It makes it extremely difficult to run a building. It makes it very difficult to explain to a tenant, who has a genuine concern about what the rent is going to be for the next two years, when 12 months have gone by and there has been no answer as to what the rent has been for the past 12 months. They are sometimes faced with making a considerable payment for arrears as they are not required to pay a proposed rent until the order is actually issued.

We found ourselves in a situation where we made some very humanistic arrangements with our tenants, apart from the fact the money was very necessary to pay the bills on the building. We found ourselves making arrangements to allow tenants to pay arrears, as a result of a rent review order, over a period of one year. We were still in the situation of a back-to-back rent review situation.

Again, we have had a situation where we have been to rent review. We have had our hearing, had our order, and thought we were finished with it. A tenant appealed the order, which is perfectly acceptable, and the commission has taken a year to schedule the appeal hearing. I have no conception of why a government body, or any body for that matter, would take a year to decide whether or not to schedule a hearing on this type of thing. That disrupts the operation of a building where, a year ago, we were out of the order period. I do not understand it.

These are some of the problems we face. Again, the guidelines for rent control are something I feel need to be looked at. The economic lifespan they give some of the capital expenditures is unrealistic. We have been in a situation where a roof has had to be replaced every five years, and they will allow 15 years to amortize that expenditure. It simply does not last 15 years. It cannot be stretched out to last 15 years or you incur a massive operating increase trying to patch it on an annual basis. They are things like that.

In this situation, with what the committee here is dealing with, we again have a problem with time. We realize this is the end of August and September is a week away. We have to serve 90-day notices of rent increases for proper notice for tenants. In order to do that for January, we have to serve them by the end of September.



We have a question in our minds as to whether or not that is going to be possible. Again, you are into a no-win situation. You either have to guess at the rent or take a chance and underserve the tenant. For example, if you serve the current four per cent rent increase and the decision is that the rent increase will be allowed at 5.5, 5.2 or 5.6 per cent, whatever the percentage, we cannot turn around and re-serve those tenants as those tenants have been legally served on a time basis. We consider this to be quite a problem. We cannot afford to keep losing money.

I run a pre-1976 building which is losing money. It is one bad apple after the other. That is how we perceive it right now.

Basically, that is my presentation to you. It is a very fast, brief history of what I have done for the past 10 years. I do not see this problem getting any better.

The Acting Chairman (Mr. Knight): Thank you for your presentation, Mrs. Catlin. Are there any questions from the committee?

Mr. Reville: Mrs. Catlin, I do not think that this bill is going to be passed in time for your January rent increase, so you are probably going to have to wing it. I understand the problem that causes you.

You said that Bill 51 is a good first step. Can you tell me what the second step should be?

Mrs. Catlin: I see Bill 51 as being nothing much better than damage control in the short term for this industry. What you are trying to deal with is 10 years of disaster. You would be very naïve and ignorant to believe you could repair 10 years of disaster in a few short months. In my opinion, it cannot be done.

16:00

I do not think anybody has the perfect answer to this problem, but landlord and tenant groups sitting down and talking is the only way each side learns what the other side's problems are all about. In this way, genuine fears are coming to the surface and people are learning. It is a learning process, and I cannot give you an answer to what you should do.

Mr. Reville: Is it your view that rent review should be phased out at some step?

Mrs. Catlin: I definitely believe it should be at some point. I have always been of the opinion that price-fixing is not right. I believe rent control is a form of price-fixing, but I also believe--and I am sure everyone will agree with me--there are landlords who give the industry a bad name. There must be something in place to prevent gouging.

I think you would find that all reputable landlords would not allow themselves to get into a problem like that. Till now, we have been fighting a form of price-fixing, for lack of a better way of putting it, and the good landlords or the reputable landlords--and I will use the word "game"--have played the game. They have played by the rules that have been set out. If you do not play by the rules that have been set out, you will get caught. You will be reprimanded and you should be. I believe that is how it should be. I do not think anybody is going to come up with an overnight solution to this.

Mr. Reville: I think you are the sixth landlord representative we have had today. So far not one of them has indicated a whole lot of confidence that Bill 51 will create any housing. How do you feel about it?

Mrs. Catlin: I do not believe it will create any housing at all in Hamilton.

Mr. Reville: Of any kind? Not luxury housing either?

Mrs. Catlin: No. Hamilton does not require luxury housing. I do not think anybody would argue with me when I say the main problem everybody is trying to address is affordability, and affordability is evident in every area of Ontario. Every city and town has a rent spectrum that goes from very low to very high. High-cost accommodation can vary widely. What is high in one city can be very low in another. It is very dependent on the area you are in. Hamilton sits in the shadow of Toronto, and I think it is very unfortunate. Hamilton does not have Toronto's problems. It has a set of its own, and it is trying to deal with its own. Likewise, Toronto is trying to deal with its own problems, but I believe the rest of the province is paying for Toronto's problems.

Mr. Reville: Hamilton does have a vacancy rate that is very similar to Toronto's?

Mrs. Catlin: Yes.

Mr. Reville: So somebody is having trouble getting accommodation.

Mrs. Catlin: Yes. I believe it is the lower-income people who are having trouble. Let us call a spade a spade. Let us use a two-bedroom, rent-controlled unit that is renting for \$350 a month. Two people came to apply; one person made \$15,000 a year and the other person made \$40,000 a year. Who do you think the landlord is going to accept to move into that unit?

Mr. Reville: The landlord would obviously give it to the person with the lower income.

Mrs. Catlin: No, wrong. You are not a landlord.

Mr. Davis: You lost the \$65,000 question.

Mr. Reville: It is lucky I am not a landlord.

Mrs. Catlin: It is security. Obviously, the landlord would rent it to the higher-income-bracket person because he has a better chance of paying the rent on time.

Mr. Reville: Let me ask you one specific question about the bill. For the first time, the bill suggests that the matter of costs no longer borne by the landlord should be dealt with at rent review, and when it comes time to replace that capital item, the bill provides for the landlord being required to deduct 80 per cent of the cost no longer borne. Is that an item that you are familiar with?

Mrs. Catlin: I cannot say I am totally familiar with it. I have just briefly glanced through the bill. I saw a copy of the bill only the other day.

Mr. Reville: You realize there are 100 amendments coming on this bill as well.

Mrs. Catlin: Yes, I am sure there are.

The Acting Chairman: I can assure you that Hamilton is not the only centre in Ontario that lies in the shadow of Toronto. That is a subject of many complaints that some of us who represent ridings outside Toronto have expressed.

Ms. E. J. Smith: I have a couple of questions. You addressed the problem of capital expenditure and another problem that I have forgotten. They are addressed to quite an extent in the new bill, which is quite an improvement, for instance, recognizing interest costs on capital expenditures and so on and allowing for profit on your investment if the capital expenditure is your own money. For the ongoing process, do you consider these formulas are reasonably adequate, forgetting the problems of existing housing?

Mrs. Catlin: I cannot say I am that familiar with the formulas. I do not know.

Ms. E. J. Smith: Just scratching away here, I am interested in the proposition that there is absolutely no market for \$750 rent. Recognizing that there is a major housing problem for people in lower-income groups--I think we all recognize that--this is only one of the things government will have to do to address the housing problem. This will never address it for certain groups. Take Mr. Weisz's suggestion that we should not be protecting beyond a certain percentage of income, and I believe he quoted 28 per cent or something such as that as being reasonable. I am looking at the number with two parents working. Doing the arithmetic involved in that, I am surprised you see no market at all. I think you agreed with Mr. Weisz's statement that there is no market in that area and that nobody in Hamilton will ever build for that area because there is no market.

It will be interesting for us as we travel, and we will travel, to get some look at average incomes in communities to determine whether something is quite beyond the reach of the average income earner or a certain percentage in a community. Is the matter in Hamilton that there are already enough built in that area or is it a question that you think nobody in Hamilton is willing to pay that much rent? In London, in my opinion, people are taking longer to come to accept higher rents because it is so different from what they were used to. It has nothing to do with their income or their ability to pay in many cases.

Mrs. Catlin: I tend to agree with you on that point. Why should somebody pay \$750 a month for accommodation when he can get the same accommodation a couple of blocks away for \$500 a month under controls?

Ms. E. J. Smith: It is partly the comparison with the controls group that makes people psychologically unwilling to pay what otherwise might be a reasonable rent.

Mrs. Catlin: Definitely.

Mr. Davis: It is the minister's bill and I was wondering whether he would like to comment on the fact that the two delegates who have just appeared before us, Mr. Weisz and Mrs. Catlin, now state that Bill 51 will do absolutely nothing to encourage building of new rental units in the city of Hamilton. That is what I understood them to say.

The minister stated in the House that it would indeed encourage building. I think Mr. Weisz was quite correct. I am not an economist, but if



it costs me \$750 to bring something on stream and I cannot make it, as Mr. Weisz says, I am not going to build it. Will the minister explain to this committee and the two deputations how Bill 51 is going to encourage development in the city of Hamilton?

Hon. Mr. Curling: Let me respond in this way. I gathered that this was a committee to hear the views of witnesses coming before it with presentations. We spent considerable time with the Rent Review Advisory Committee. With the wisdom of democracy, they asked us to go out, have hearings, hear witnesses and have people bring statements and presentations to us. We welcome this opportunity. I would like--I am just a rookie here--to get the opportunity to hear and ask questions of them. Now you are quite conclusive; you have heard three and you have concluded already. We are not that hasty. I would like to hear from the members who present to us their views. When we are through, I think we may be able to make some assessment of what this bill will be all about.

16:10

Mr. Davis: I would like to continue. Rookie or not, you have the responsibility for this bill. You have stated in the House and in the papers many times that this bill will encourage development. Granted, it will not deal with the problem of affordable housing or with people at the lower end of the socioeconomic scale who have difficulty renting. You have now had three or four individuals before you who have stated that this bill will not encourage in Hamilton the kind of development which you have indicated to the people of this province.

While you are present and individuals are coming before us, it is an opportunity for us, as we try to find a mechanism to deal with this bill--You have already told us, along with the members of the rent review committee, that we are not to tamper with this bill. You have indicated that to tamper with the bill will throw the delicacy off. It is now an opportunity for you to make some comments for us to understand how this bill actually is going to work in those areas where we are finding difficulty.

It is important that we do that when the delegates are in front of us, not at the end. You may be quite correct in saying that there are opportunities in Hamilton. I assume that you are aware--it may not be; it may be such a horrendous bill--of whether or not there will be areas within this province where the bill, in effect, will not do what you intend it to do. It is an opportunity for you to indicate to us how we will deal with this.

Mr. Chairman: Because we are in for the long haul in this committee and will hear from approximately 100 delegations in Toronto alone and another 40 or 50 outside Metro Toronto, I think it is appropriate to make a ruling now, so that we will not be into a hassle every afternoon and evening.

Therefore, I urge committee members to do one of two things if they want to engage in debate with the minister: (1) to do it as a clarification on something that someone who is making a presentation has said; or (2) to leave it until we reach the clause-by-clause debate, which is where the claws will be out among members and the minister. That is the way it should be.

For one thing, it is going to slow down the process to an intolerable level, and we will not get through all the delegations from whom we want to hear. I urge members to deal as we go through with the delegations or the

individuals who come before us rather than with the minister in such detail. It is in the best interests of us all and certainly in the best interests of the people making presentations, that we do it this way.

Mr. Cordiano: I would simply like to echo what you have said and further to endorse it. It is essential that we hear from the delegations. You have rightly pointed out that there will be numerous delegations before us. If we are going to engage in debate among politicians, I do not think it is going to be useful at this time.

Mr. Davis: I was fortunate or unfortunate to sit on a committee that heard 896 briefs. During that time, the Minister of Education (Mr. Conway) was present. You are quite correct: I believe I was asking for a point of clarification. We were able to ask the minister questions to understand and clarify parts of the bill.

My question was directed to the minister. The minister has gone on record that Bill 51 will create rental development, the infusing of new money into new buildings. We have had three delegates before us today who have said this will not occur. I think it is appropriate to ask the minister how he understands his bill will encourage rental facilities or new buildings in Hamilton when people who are involved in the business tell us it will not.

I think your ruling that the questions should be to clarify is fair. I do not think that they should be seen as, nor were they ever intended to be, attacks on the minister. If they are seen that way, I certainly apologize. They are for clarification. I think it is important. When the minister has, in a certain way, suggested that to tamper with this bill in any major way will affect its effectiveness, we need his direction as we go through it here. Let him comment on it and say this will do or that will do. This is my intent.

In all due respect, to suggest that we should not ask the minister questions when he is present is wrong. He is here to listen, as we are, but also for points of clarification. I understand--and I always stand to be corrected--that this is the role of the minister when and if he is present.

Mr. Chairman: Okay, but keep in mind that we are in the public hearings process. The part of dealing with the bill that we are engaged in right now is the public hearings.

Mr. Davis: I am aware of that.

Mr. Chairman: I do not want to detract from that, because it is not fair to people who come before the committee. Among ourselves as politicians, we can engage in an endless debate on this bill. I suspect that we will before it is all over.

Mr. Taylor: I do not want to be unkind to anyone, especially my colleague, but I am grateful that the minister is here to sense the flavour of the proceedings and the people who are coming here to make representations. The minister does not have to be here. He is here and I encourage him to remain here. The only caveat I have is that I do not want to tempt him to be absent by unnecessarily tying up or occupying his time with questions.

If we have a question of a technical nature, that is why we have the staff. We are at perfect liberty to request information from staff. Presumably, if there is a matter of policy where the staff does not feel that

it should tread, then the minister is here to clarify matters of government policy. That is appropriate.

I appreciate your concern that if we are going to finish these deliberations, we are not going to be able to engage in a question period with our own staff or, in this case, with the minister. I hope the minister will remain and be responsive to matters of clarification and matters of real concern without engaging in politics. As Mr. Davis said, I am sure he is not engaging in politics.

Mr. Chairman: Let us play it as we go then. I urge members to keep this in mind. It really is not fair to him.

Mr. Reville: In the face of the evidence from deputations from Hamilton, perhaps the minister will undertake to provide us with counter-argument at some other time. Then we can share it with the people from Hamilton.

Hon. Mr. Curling: I just want to comment quickly that the bill itself will generate for people a confidence in an environment in the market. The landlords and tenants will get together to resolve the problem. I want it to go on record that I do not say we are going to build; we are going to start construction. I think the confidence is there, the environment. People will be confident to see their government addressing an issue and proceeding in that way.

The next part is to say that I intend to be here as much as possible. There are other roles that I do play. It is a great opportunity to hear you at first hand. I have heard before from many people who are presenting here, but I want to hear and get a sense of it so that, when we come to clause-by-clause debate, I will then address those issues and tell you what position we are taking.

Mr. Chairman: At the very moment we sit here, an important person in the room is Mrs. Catlin. Are there any questions or comments from Mrs. Catlin? I am pleased that you were able to experience the workings of a committee at first hand this afternoon. We thank you very much for appearing before us and giving us your views.

Mrs. Catlin: Thank you very much.

Mr. Chairman: The next presentation is by Doris Schwar. Am I pronouncing that correctly?

Ms. Schwar: Yes, you are.

Mr. Chairman: I myself have a name that is often mispronounced, so I understand the problem.

Do you have someone with you?

16:20

Ms. Schwar: Yes, I do. This is Charles Kattides. He is the president of the tenants' association of 2700 Lawrence Avenue East in Scarborough.

Mr. Chairman: Are you representing the tenants' association?



Ms. Schwar: No. I am representing myself at this time, although I am a member of the Scarborough Tenants' Council.

Mr. Reville: May we have that address again?

Ms. Schwar: It is 2700 Lawrence Avenue East.

Mr. Chairman: Welcome to the committee.

MS. DORIS SCHWAR

Ms. Schwar: Thank you very much. My name is Doris Schwar. At present, I am studying social housing policy at York University. I have been fortunate to have been awarded a scholarship from the Canada Mortgage and Housing Corp. to study limited dividend housing.

Limited dividend housing is the kind of housing program under which Mr. Kattides's apartment building was built. If the committee will indulge me, I would like to explain what it is. Limited dividend housing is Canada's oldest social housing program. It was officially started in 1913 by the Toronto Housing Co. The Toronto Housing Co. at that time built 330 houses, the profits of which were limited to five per cent; that is, the owners could make no more than five per cent profit. The houses were privately owned and they were built specifically to provide low-income rents for tenants who needed that kind of support.

In 1919, the federal government again initiated an attempt of this sort and spent \$25 million, much of it on that kind of social housing program. This program was revived in 1935 and formalized in the Dominion Housing Act; that is the National Housing Act of 1944. I would like to point out some of the provisions of the act at that time.

The act provided that the low rental program was to be maintained throughout the life of the program and in the event of failure to maintain the low rental character of the project or otherwise committing breach of the contract, the minister could declare the unpaid principal of the loan payable forthwith, thus to reprocess the project.

There are a number of other provisions formalized in this part of the act. One of them is that mortgage loans were made to private developers at least two per cent below market interest rates. In 1944, that was three per cent per annum, and mortgages were amortized over a 50-year period. The program was effectively used until 1985. There were several major changes to the provisions of the program, but the total expenditure on it by the Canadian government add up to roughly \$2 billion in crown funds. The total number of units currently under the control of CMHC's social housing section are about 60,000. About one third of those are in Ontario.

There have been a great number of problems associated with this program. One of them was documented by Susan Fish, with whom you are probably familiar, and Michael Dennis who documented it in 1972. Nothing has been published on the program since then. Nevertheless, I estimate that at present between 60,000 and 80,000 tenants live in this kind of housing development in Ontario. The cities in which most of these are located are Ottawa, Toronto, Hamilton, Windsor, Sudbury, Thunder Bay, Kitchener, Waterloo and so forth. Most of the larger centres in this province have such units.

The relationship between limited dividend housing and Bill 51 is that many of these tenants have experienced problems in maintenance and rising rental costs. At this time, many of the rents I have surveyed are just marginally below market rent.

Nevertheless, Bill 51 contains a catch-up clause that will permit what the bill terms chronically depressed rents to be raised to market level. I would like to point out to the members of this committee that to do so would be contrary to the intent of the program and to the provisions of the program within the National Housing Act.

In addition, of course, the concept of catch-up rents is offensive from my perspective, largely because rents are so extraordinarily high and unaffordable for many low-income tenants. If that provision is maintained within the act, I would respectfully submit that this committee should at least exempt limited dividend housing from that particular provision.

Mr. Kattides will be pleased to answer some questions regarding living conditions in his particular project. I am sure you will find that of interest.

Mr. Chairman: Could I ask you one question to start off, Ms. Schwar? I was interested in learning that you are actually doing a study on social housing policy. Do you have a view or position on the whole question of subsidizing relatively high-income people in rent-controlled units?

Ms. Schwar: Relatively high-income people? How high?

Mr. Reville: You know, high-income--\$8,000 a year.

Mr. Chairman: We had the example of people earning \$100,000 a year, living in a rent-controlled building and paying a rent, I believe, of \$5,000.

Ms. Schwar: It would seem to me that anyone who earns \$100,000 a year would be rather reluctant to live in a building that rents for \$5,000 a year. I have seen a number of them. I have done a great deal of apartment research. Quite frankly, I would not choose to live there if I made twice as much as I do, and I do not make anywhere near that.

Mr. Reville: I have a number of questions. How does one apply to live in an LD building? Do you have to have your income tested?

Ms. Schwar: There are income limitations. The maximum at this particular time--that is, the outgoing limit that has been established by the Canada Mortgage and Housing Corp.--is just under \$30,000 in Ontario.

Mr. Reville: Is that family income?

Ms. Schwar: Gross family income.

Mr. Reville: Do you have any information about the average income of people who live in LD buildings?

Ms. Schwar: Not specifically, although the research I have done in Scarborough indicates that it is very low; that is, many of the people who live in such buildings tend to be immigrants, elderly people and sole-support mothers.

Mr. Reville: Can you give us a range? Is it from \$12,000 to \$15,000, \$15,000 to \$20,000?

Ms. Schwar: Under \$20,000.

Mr. Reville: I guess some of these units are now in the hands of local housing authorities.

Ms. Schwar: All those units are owned privately, by private investors, private landlords.

Mr. Reville: That is the group you are worried about, because if they are with a local housing authority, as I believe some are, they are not part of the--

Ms. Schwar: No, they are not. That is not the kind of housing program I am looking at. I am looking at section 15, which is strictly social housing or entrepreneurial housing. The kind of building you are referring to comes under subsection 15(1) and is nonprofit housing.

Mr. Reville: This is section 15 housing only then. Do you estimate 20,000 units in Ontario?

Ms. Schwar: Yes. These are all family units. In other words, you virtually have to multiply it by at least three, if not four.

Mr. Cordiano: Could I ask--

Mr. Reville: How do the rents go up now? I am not quite finished yet, Mr. Cordiano.

Mr. Cordiano: If I could have a supplementary--

Mr. Reville: Why do you not ask the chairman if you can have a question and not me?

Mr. Cordiano: Could I just have a supplementary on Mr. Reville's question?

Mr. Chairman: All right, Mr. Reville?

Mr. Cordiano: Would you indulge me, Mr. Reville, in a very short supplementary?

Mr. Chairman: All right, jump in quickly.

Mr. Reville: Sure. Hurry up.

Mr. Cordiano: Do you have any estimate of the average rent paid for limited dividend housing?

Ms. Schwar: No, I am afraid not. I am just on the verge of starting that research. I do know, however, that in the case of 2700 Lawrence Avenue East, which is Mr. Kattides's building, the rent is just above those of another privately owned building roughly in the same vicinity. In other words, they are marginally below market rent.



The particular building I am comparing it to is an exception, but basically they are--what is the rent for a two-bedroom apartment, Charlie?

Mr. Kattides: It is about \$380.

Ms. Schwar: Is that \$380?

Mr. Kattides: Exactly \$378 for a two-bedroom apartment.

Mr. Cordiano: Thank you.

Mr. Reville: That is a long way from market rent in Toronto at the moment; the average is \$487.

16:30

Ms. Schwar: This particular building is one of the less attractive examples of the program.

Mr. Reville: I am familiar with a number of LD buildings that are incredibly crummy. No one would want to live in them. I do not need to be convinced about that. I am trying to get a handle on some of the information about LD that is background to this. Under what process are rents increased normally?

Ms. Schwar: Under the same process as any other privately owned building, that is, through the rent control, rent review system.

Mr. Reville: But their rate of return is limited.

Ms. Schwar: Their rate of return is limited and the rent increases, once granted by the rent review board, are reviewed by CMHC to make sure they are appropriate.

Mr. Reville: Will that continue?

Ms. Schwar: That will likely continue.

Mr. Reville: Can you tell us precisely how this bill causes you concern then? I am not sure yet.

Ms. Schwar: It causes me concern because, as has been pointed out, the rents are lower than market rents and it may very well be that landlords without a specific exemption will apply for a catch-up clause in this.

Mr. Reville: Under the "chronically depressed" parts of this bill?

Ms. Schwar: Yes.

Mr. Reville: In that case, you are concerned that the tenants could not afford the rent?

Ms. Schwar: That is right.

Mr. Reville: In fact, you are sure they could not afford the rent.

Ms. Schwar: I am sure they could not afford the rent.

Mr. Reville: I have no further questions.

Hon. Mr. Curling: Even if the rent increase is \$5 a month, the tenants could not afford that?

Ms. Schwar: Many of these buildings have been neglected for a very long time. They have serious structural problems. The windows are about to fall out, the plumbing is in outrageous shape, the heating is inadequate, balconies are broken, and playgrounds are a total disgrace and a hazard to the children. If all those repairs are made, and sometimes they are on the basis of tenant complaints, the rent increases can be quite phenomenal.

In the building in which Mr. Kattides lives, rents have been raised by 84 per cent since the building was sold in 1981. I do not know how much further a low-income budget will stretch, but I suggest there will be people in very real difficulty.

Mr. Taylor: Does the five per cent return on investment have an impact on the rent that can be charged?

Ms. Schwar: It is supposed to.

Mr. Taylor: But is that not the way it functions? If it is more than five per cent, you are breaching your contract, and then the balloon clause would make the mortgage all due. Is that not what you said?

Ms. Schwar: Yes.

Mr. Taylor: Does that not function to keep the rents low?

Ms. Schwar: No, it does not. Not in the case of a resale, for instance, and there have been a number of resales.

Mr. Taylor: Could we have that clarified? Does someone know something about that?

Mr. Chairman: I do not understand your question.

Mr. Taylor: We have rent control on the one hand, but under rent control legislation you can escalate the rents beyond what the present tenants can afford to pay, as I understand from this witness. The limited dividend provision limits return on investment, as I understand it--it is not return on investment; it is profits.

Ms. Schwar: I should mention that roughly half the buildings currently in the portfolio do not have a limited dividend provision on them because it was removed in 1968 after the Hellyer study on low-income housing in Canada. Any building built since 1968 is not limited with respect to dividend. Only the pre-1968 buildings are.

Mr. Cordiano: That would affect the total number of units you are speaking about. The 20,000 is not 20,000.

Ms. Schwar: The 20,000 is 20,000, 10,000 of which are limited in terms of the five per cent limitation. The other ones are not limited in terms of profit margins. The average profit estimated by CMHC on the buildings since 1968 ranges between eight and 10 per cent.

Mr. Cordiano: The ceiling has been raised.

Ms. Schwar: There is no official ceiling.

Mr. Cordiano: Okay, so there is no ceiling whatsoever on the buildings after 1968.

Ms. Schwar: That is right, no profit ceiling.

Mr. Cordiano: No profit ceiling. Essentially, we are talking about half the number that you have pointed out.

Ms. Schwar: They are still below-market rents because they have certain tax advantages as well as the mortgage advantages. They were built at a much lower quality in terms of construction on more marginal lands and so on.

Mr. Pierce: Are you saying that once the first owner sells to a second owner, the second owner is allowed a five per cent return on his investment, and that purchase price may have been such that it would up the rents?

Ms. Schwar: Yes.

Mr. Pierce: Now we are getting somewhere.

Ms. Schwar: As I was pointing out to you, in Mr. Kattides's building, since the sale the rents have gone up 84 per cent.

Mr. Pierce: Since one sale?

Ms. Schwar: Since one sale in 1981. Since 1981 the rents have been raised by 84 per cent.

Mr. Cordiano: That particular building is limited dividend?

Ms. Schwar: Yes.

Mr. Pierce: But the limited dividend, of course, reflects whatever the purchase price was to the new owner. If the new owner paid \$500,000, he would be entitled to five per cent of his investment, which would increase the rents so that he gets his five per cent return.

Ms. Schwar: Right.

Mr. Chairman: Is there someone in the ministry who understands and has a grasp on this?

Mr. Church: I will not claim to have a full grasp of it, but I think the essential point that Mr. Taylor was getting at earlier revolves around the limitations in rent review, which, as the witness properly states, have to do not with rate of return but rather with the rate at which financing costs can be passed through on losses due to sales. That is limited to five per cent.

Ms. Schwar: I beg your pardon. This particular sale took place just a couple of weeks before that limit was imposed--



Mr. Church: That lifted out of my mouth the next statement, which is that one of the main reasons there were dramatic rent increases between 1980 and 1982 was that there were flips, genuine sales, less-than-genuine flip sales and absolutely outrageous sales. It is conceivable, although I want to be very careful and say it is not by any means necessary, that the building in question faced a sale that was less than a normal sale situation. It is also conceivable, because the rents were relatively low if they have increased by 80 per cent, that in fact the 80 per cent on \$180, for example, although it sounds like a dramatic percentage, could be quite justifiable as the cost factor. You would really have to look at the performance of the individual buildings to make that judgement.

Mr. Pierce: That does not take away from the ability of the people who are living in there. Eighty per cent is 80 per cent; it does not matter whose income you base it on.

Mr. Church: Absolutely.

Mr. Pierce: The people living there cannot afford an 80 per cent increase any more than the people living in the \$700 unit can. It is the ability to pay that has to be the factor, not the ability to give you the return on the investment.

Mr. Church: To finish on that, you are absolutely right. There is no relationship between ability to pay and the rent review system as it stands now or as it is proposed.

Mr. Reville: I have been doing some rough calculations. An increase in one year under the chronically depressed rent section would make those units unaffordable for virtually everybody, it appears to me. If their incomes are \$20,000 a year, they should be paying about \$400 a month for rent. Judging by that rent structure, at \$380 you would get an increase of about \$27 a month under this formula. I would think it would make it unaffordable for most people.

Ms. Schwar: It will exacerbate a homelessness problem and a social problem, and a problem that is now manifest in the number of applications for public housing. It is going to be a very serious error and it is contrary to the intent of the federal legislation, because many of these buildings are still financed at 6.75 per cent for the next 30 years.

Mr. Reville: You mentioned that a number of these buildings are in very poor repair and that the maintenance is not very good.

Ms. Schwar: Right.

Mr. Reville: There are provisions in the bill for a maintenance board. Does that provide you any comfort at all?

Ms. Schwar: It does.

Mr. Reville: Some?

Ms. Schwar: Yes.

Mr. Reville: A lot?

Ms. Schwar: It really depends on how it is implemented. The city of Scarborough has a very progressive property standards bylaw.

16:40

Mr. Reville: Then why are the buildings in poor repair?

Ms. Schwar: Because it is very difficult, first, to get an inspector to come out; second, to get an inspector to make a repair order; and, third, to get a conviction in court.

Mr. Reville: So the maintenance board will obviously have to have the power to enforce whatever orders.

Ms. Schwar: That is right.

Mr. Reville: Under the "chronically depressed rent" part of the bill, section 88 and following, it says if the building is in crummy shape, you cannot get relief. Does that provide you with any comfort?

Ms. Schwar: That is something I suggested to the city of Scarborough two years ago.

Mr. Reville: I suggested to the minister that we not pass this section of the bill, and the minister said that was not his view. I then suggested to this committee that before we pass this section, we include a section that guarantees that no tenant in such a building should lose his or her unit by reason of this section and that the government should come forward with a program to ensure that is, in fact, the case. Do you have a view on that?

Ms. Schwar: Are you suggesting further subsidies?

Mr. Reville: Yes, some kind of subsidy program would have to be implemented.

Ms. Schwar: Ultimately, that is a program of subsidizing landlords, or as David Hulchanski, one of Canada's foremost housing experts, calls it, a welfare program for landlords.

Mr. Reville: Can you recommend a solution to the problem you have pointed out?

Ms. Schwar: The initial solution I was going to suggest to this committee is that there be a specific exemption that recognizes at least the intent of the federal legislation and says the chronically depressed provision does not apply to limited dividend housing. I believe that is a very simple legal measure. I will be glad to provide written documentation of the appropriate acts and so on--unfortunately, my computer broke down today--and it will be provided to you and to the minister tomorrow.

Beyond that, the question of affordable housing may be looked at. Maybe there is no profit to be made in new housing and maybe we have to look at alternatives. I think subsidizing individual tenants in buildings is at best a stopgap measure that is not going to solve the housing problem and the affordability problem. I believe it is extremely serious.

Ms. E. J. Smith: I find your presentation very interesting, but it seems to me you are showing us a situation that currently exists without this bill.

Ms. Schwar: Yes.

Ms. E. J. Smith: It is a situation none of us can be pleased about, to say the least. Therefore, to simply exempt you is going to leave it the way it is. I do not know how this is a solution.

Ms. Schwar: I am not suggesting it is a solution, but at least it will not exacerbate the situation. I am very much afraid this clause in this bill will help to worsen a situation that is already extraordinarily bad.

Ms. E. J. Smith: I understand that and I am empathetic to what you are saying, that we must not worsen the situation for these individuals. On the other hand, I am not so sure there is going to be a solution. I feel, as has been drawn out by Mr. Reville, there must be housing standards, much stricter enforcement of them and the mechanisms going in around them, at least in my understanding, for the landlords. Probably the only remedy for an area such as you are talking about is proper housing standards that are properly enforced. There must be something more than what we now understand as the minimum health and building code standards.

Having said that and having hoped that once the bill became operative, that would become very much a plus, I assume there has to be some balance by which these housing standards are going to be paid for. We are going to have to look to the ministry to say, "We want to make sure the very disadvantaged people are not simply turned out into the street." I think it is obvious that cannot be allowed to happen. Bringing in decent housing standards has to be a positive action, and we do not want to exclude your area from that positive action.

I note that the chronic go up only two per cent a year. You were talking about great leaps. I am not suggesting that is not a difficulty, but from listening to you, it seems to me that we have something that has to be examined in a better and more positive way than just saying, "Hey, we are not going to let them apply."

Ms. Schwar: If I may respond to that, clause 9(4)(f) of the National Housing Act of 1944 said surplus earnings should be set aside "for reserves, maintenance, repairs, possible decline in rentals or other contingencies...." This contingency fund was built into the program and has been in existence from its beginning. Financially, there is absolutely no need for the kind of decay that has been going on in this particular program.

I do not know why it has taken place, whether it is deliberate neglect or what the cause might have been. I have some ideas. I would suggest that the bill originally took care and still takes care of that provision, and there is no need for a provision within a provincial act.

Ms. E. J. Smith: As Mr. Reville said, if there has been gross negligence and the deterioration has occurred in what was originally a government social housing plan--

Ms. Schwar: It still is.



Ms.-E. J. Smith: Here we have what could seem to be gross negligence and yet profits. From the sound of it, they are going to be exempt simply because of the gross negligence.

Ms. Schwar: No. I would suggest that they should be exempt largely because they continue to enjoy an extraordinarily favourable interest rate, which is subsidized by Canadian taxpayers.

Ms. E. J. Smith: Yes, but do you not think the tenants will be able to bring cause against a landlord on the basis of gross negligence? That is what I am wondering.

Ms. Schwar: Possibly, but my point is that this program and the lending was extended particularly to provide low income, low-end-of-market rental housing.

Ms. E. J. Smith: I understand that.

Ms.-Schwar: Even though most people are not familiar with it, it must be considered as a program that is right in between public housing and private housing. Although it is privately owned, it has a number of very public benefits such as tax exemptions and low interest rates for 50 years. These things have to be considered, because these buildings are already subsidized by us.

Ms.-E. J. Smith: Right. I agree. It seems to me in some ways that because they are in a class unto themselves they need to be looked into. I would be interested in the minister's comments on this at some point later. We are all listening at this point. I would agree with you that part of the problem seems to have been flips. Part of the problem seems to be that there are already people here who are benefiting. Speaking for myself and for other members, I think we do not even understand what built-in benefits the landlords already have. Because these are in a class unto themselves, we are going to have to understand them in a class unto themselves. I would only make that point. I am not yet ready to draw any judgements.

Ms. Schwar: I will be glad to provide the committee with a written copy of some of the background material.

Ms.-E.-J. Smith: Thank you. I appreciate your presentation. It has certainly been informative to me. I have always known these projects existed without understanding them, even though I was on a housing authority for several years.

Mr. Chairman: Are there any other questions?

Mr. Reville: I am wondering whether the minister or a ministry official will undertake to provide some documentation so that we can examine this special problem. In my own experience, you would not believe the state in which some of the limited dividend buildings in my area are maintained; it is really crummy. Obviously, that is one problem, and the affordability issue is another problem. If it turns out that this bill defies some federal public policy, we want to know that too. Perhaps that whole issue could be developed for us and maybe we could get some response before this deputant leaves today.

Hon. Mr. Curling: It is important that we have that presentation made to the committee on this special area.

Mr. Reville: If there is any information about the income levels of the people who currently live in LD buildings in Ontario, that will be very helpful to have as well.

Ms. Schwar: Excuse me, Mr. Reville. At the risk of sounding very arrogant, I believe I am the only person in Canada who is doing any research on these buildings at present.

Mr. Reville: Call up the ministry and it will give you a contract to provide the information. It pays very well, and you will like it there.

Ms. Schwar: I would appreciate it.

Mr. Chairman: Mr. Tenenbaum, I believe you are the next to speak on this area.

Mr. Tenenbaum: Yes. I would like to enlighten you--

Mr. Chairman: Let me finish for a moment, please. I am reluctant to recognize you, because once we start that process with a delegation before the committee, you tell me where that process ends--no, do not tell me. I am concerned about that. If the committee wishes to hear a brief comment from Mr. Tenenbaum, that is all right, but we cannot set a precedent of having people who come before us either contradicted or a debate flowing from their comments from the audience. That is simply not fair to people coming before the committee. Does the committee wish to hear briefly from Mr. Tenenbaum?

Mr. Taylor: In this case it might be appropriate, if for no other reason than the lack of understanding by most members of the committee.

Mr. Chairman: You will have to come up to the microphone, Mr. Tenenbaum.

Mr. Tenenbaum: I am really pleased with this lady's presentation on limited dividend: nice, good, but not everything. I would like this committee to understand this, because I mentioned the limited dividends in just a few sentences in my submission. With your permission, I would like to elaborate a little bit.

I bought limited dividend, I own limited dividend and I manage limited dividend. I am hereby inviting every one of you to my limited dividend. I would like to see whether any one of you--

Mr. Chairman: I am sorry; that does not answer the question the committee wanted to hear from you.

Mr. Tenenbaum: Okay. To come to the point, any limited dividend, old or new, is absolutely nonprofit; not two per cent, not five per cent, not 10 per cent, nothing. It gives a five per cent dividend on five per cent of the original investment, which at that time was very minute. This is all the owner is entitled to earn or to have, and it comes not in the thousands of dollars. That is number one.

Mr. Taylor: Five per cent of what?

Mr. Tenenbaum: Of the original investment of the difference between the total project. In other words, the Canada Mortgage and Housing Corp. did not accept that the units cost \$15,000; it assessed that the unit was only \$14,000. I am giving you an example. It loaned 95 per cent of the \$14,000; the owner invested only five per cent. Therefore, he is entitled to only five per cent--

Mr. Taylor: On the five per cent.

Mr. Tenenbaum: On the five per cent that he originally invested. This is so.

Mr. Taylor: What is the other five per cent on?

Mr. Tenenbaum: There is no other five per cent. There is only one five per cent. It is called limited dividend under original investment, which is five per cent of the total appraisal from Canada Mortgage and Housing Corp. That is number one. Two, there is an operating agreement between CMHC and the owner. Every year the owner has to submit a financial statement. You can even give a five, 10 or 20 per cent increase. They do not allow any return of any money other than the five per cent dividend.

The problem is that CMHC made that operating agreement between the owner and CMHC. Let us say a tenant comes in at \$20,000. All of a sudden he gets married, has a wife and they both get raises and they earn \$50,000. We have a Landlord and Tenant Act. They cannot be told to go.

Mr. Taylor: Excuse me. It is not that area. It is the mechanics of the program.

Mr. Tenenbaum: The mechanics of the program are terrible because this same apartment is doubly rent-controlled. It is controlled by the province and it is controlled by CMHC. This, as I addressed the minister before, is double control.

Mr. Taylor: As to the management contract, what is the return to the owner?

Mr. Tenenbaum: It is for the management in a group, the total management; five per cent.

Mr. Taylor: That is the other five per cent.

Mr. Tenenbaum: That is the other five per cent.

Mr. Taylor: That is what I was trying to get at.

Mr. Tenenbaum: The management contract is five per cent for the work as with any management company.

Mr. Chairman: I am going to cut this off because we have to get back to the delegation before us this afternoon. Mr. Tenenbaum, thank you for your assistance, but I will call a halt. Are there any other questions?

Mr. Taylor: Yes. In your studies, have you found conversions from limited dividend to condominiums?



Ms. Schwar: No, I have not. It is possible and it is perhaps an important clause that I should have mentioned. Limited dividend buildings may be converted. They may be bought out. They may buy out their contract, the operating agreement with CHMC. A conversion is possible. In that event, the owner loses the advantage of the--

Mr. Taylor: I understand that. I wondered whether you had figures on that.

Ms. Schwar: I am not familiar with it. I believe they must have taken place, because the number of the inventory I saw for 1982 differs substantially from the inventory for 1986.

Mr. Taylor: I suspect so. The other question I have is on municipal acceptance of limited dividend social housing or any type of social housing. Have you any information on that? It is all right to say we need more of this and we need affordable housing, but there is the problem of the acceptability of that to the municipalities. Have you any comment on that?

Ms. Schwar: I see no particular reason why they should not accept it.

Mr. Taylor: I am not suggesting that they should not accept it. I am asking whether you have any evidence of a reluctance on the part of certain municipalities to accept social housing.

Ms. Schwar: Yes, there is a reluctance, although this program seems to be more acceptable to most municipalities than, for instance, public housing on the assumption that perhaps it will be better maintained, although that is not entirely the case.

As to Mr. Tenenbaum's comments, the provisions between the pre-1968 and the post-1968 building programs were substantially different. What applies to Mr. Tenenbaum's buildings does not necessarily apply to all other buildings. Post-1968, for instance, the owner had to have no equity at all in the buildings. In other words, he or she was simply building up equity in terms of land and building.

Mr. Chairman: Are there any other questions for Ms. Schwar or Mr. Kattides?

Mr. Reville: Mr. Kattides, are you aware of any tenants in your building who have the \$50,000 income Mr. Tenenbaum was talking about?

Mr. Kattides: Maybe there are some, but this is their only problem. These people should live there. There is a maximum and a minimum for poor people to live in those buildings. If the landlord allows them to live there, (inaudible) the other problem, but there is.

Mr. Cordiano: But there are people there?

Mr. Kattides: I believe there are. There may be a couple, one or two, but this is the landlord's problem. They should be thrown out because every year we provide them with a paper from work stating how much we make.

Mr. Reville: You file an annual income statement, do you, sir?

Mr. Kattides: Of course, and the same goes for the new tenants in the building. They provide their yearly earnings.

Ms. E. J. Smith: Is this an ongoing program? If it is, is it improving itself so that these problems are being resolved, or is it just continuing with all its inbred faults?

Ms. Schwar: According to my research, it began in 1913. The last of the buildings opened under this provision was opened on September 1, 1985. In other words, they have continued to be built for 73 years. In my opinion, most of the changes that have been made to the legislation in the past 73 years have served to make the program just a little bit worse and have lessened the ability of the Canada Mortgage and Housing Corp. or the government to control the conditions that prevail in those buildings.

Ms. E. J. Smith: My understanding is there is some talk about agreements between provincial and federal people on management of different forms of social housing. Is there any envisioned change here of who is handling this program, or is it still a federal program handled exclusively by the federal legislation?

Ms. Schwar: It is still a federal program, although it is affected by rent control legislation, as is every other privately owned building. Basically, it is a federal program.

Mr. Chairman: If there are no other questions, thank you very much for appearing before the committee and raising a matter we had not really got into yet. We are looking forward to some information from the ministry in this regard as well.

The committee recessed at 5:03 p.m.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT  
RESIDENTIAL RENT REGULATION ACT  
MONDAY, AUGUST 25, 1986  
Evening Sitting





CHAIRMAN: Laughren, F. (Nickel Belt NDP)  
VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)  
Bernier, L. (Kenora PC)  
Cordiano, J. (Downsview L)  
Epp, H. A. (Waterloo North L)  
Knight, D. S. (Halton-Burlington L)  
Pierce, F. J. (Rainy River PC)  
Reville, D. (Riverdale NDP)  
Smith, E. J. (London South L)  
Stevenson, K. R. (Durham-York PC)  
Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Callahan, R. V. (Brampton L) for Ms. E. J. Smith  
Hart, C. E. (York East L) for Mr. Epp  
Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Ramsay

Clerk: Decker, T.

Clerk pro tem: Forsyth, S.

Staff:

Ward, B., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Peters, F. H., Director, Rent Review Division

Individual Presentations:

Hegedus, S. L.

Lawrence, K.

Cookson, W. E.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday, August 25, 1986

The committee resumed at 7:04 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The standing committee on resources development will come to order. The minister will not be here this evening. Mr. Peters is sitting in for him, for the deputy minister and for the assistant deputy minister. He could be a busy fellow. Mr. Warner is sitting in for Mr. Ramsay.

The first presentation this evening is Sandor L. Hegedus. Is that how you pronounce your name?

Mr. Hegedus: Yes.

Mr. Chairman: Mr. Hegedus, we welcome you to the committee and we encourage you to go ahead. We are restricting witnesses to a maximum of 30 minutes so that we can schedule everybody in.

SANDOR L. HEGEDUS

Mr. Hegedus: I have been an owner of a small sixplex since 1965. The rent is quite low relative to the expenses, which are rising by about 10 per cent every year. There is a provision in Bill 51 that says we have some income on equity. Right now, we do not have any. Two per cent is the only profit that is permitted over expenses. Now there will be equity. What kind of equity? Will it be the original price I paid in 1965, the current price, or what it would be if no rent control were suppressing the price?

Some critics claim the landlords are using the tenants to pay for the building. This is quite possibly true, but it is the same for the grocer, shoemaker, electrician and every other entrepreneur who is investing his money in equipment and buildings. The overhead is rising by about 10 per cent yearly and our income is not keeping up with it.

There is a provision that there should be an extra increase where there has been a suppressed rate of rent. If the area is totally suppressed--totally; not just one or other small pocket in the area--what will be the basis for a rent increase? Nothing, if all rents are suppressed.

If you want to spend money on improvements, you have to have income. If you have no income you cannot improve and the buildings will go down in quality.

Why would one invest in rental property if there is no income in it? You can see the result: there is no construction or improvement in apartment buildings. The rent review process is not used by most of my neighbours because they feel it is futile to go there. I learned on my own that it is. I have spent more than \$4,000 on improvements such as insulation and repainting

of the inside of the building. Six per cent was then the legal maximum increase. I got less than a six per cent increase, never mind the \$4,000 I spent on the building.

In my neighbourhood there are identical buildings in which the rents are not the same. Why? Some of the owners sold them and the buyers increased the rents. Why did the original owners not have the right to do the same? In the plans there is a 10 per cent increase. There is a 10 per cent return on investment for builders. What will it be for the so-called landlords? At this moment the return on investment for landlords is zero.

That is all I want to say. I would say more, but it is not closely associated with this problem. Thank you.

Mr. Chairman: Thank you, Mr. Hegedus. Some members want to ask you a question or two.

19:10

Mr. Warner: In your presentation, you mentioned that you and other neighbours who own property find it futile to go to rent review. Can you give us a few more details as to why they feel it is futile? What has been their experience at rent review hearings?

Mr. Hegedus: It is as simple as this, which is from the rent review hearing at which I appeared.

Mr. Chairman: Does that answer your question, Mr. Warner?

Mr. Warner: No. I appreciate that you have provided me with a copy of the order from the appeal dated April 8, 1982, with certain rent calculations and percentages. You were granted a certain percentage as a result of the order and the appeal. In your opinion, what made that a futile effort?

Mr. Hegedus: I applied for a 10 per cent increase, which would not have been an exorbitant sum, and I got less than the legal amount I would have had the right to obtain without a hearing. It was a waste of time and money.

Mr. Warner: I notice that the increase ordered by the commissioner was five per cent in four cases and 12 per cent in one case.

Mr. Hegedus: Yes, it was an equalization request.

Mr. Warner: The difference being approximately \$10 a month less than what you asked for.

Mr. Hegedus: It is not necessarily the sum; it is the principle.

Mr. Warner: How would you change rent review then?

Mr. Hegedus: The way I see it, there is no country where rent control is functioning. Can you name a country where rent control functions?

Mr. Warner: We are dealing with Ontario. I want to know how you intend--you are suggesting that we simply scrap whatever protection exists now for tenants. Is that what you are suggesting?



Mr. Hegedus: Not at once, but gradually, yes. There will be no improvement in accommodation until rent controls are eliminated. I have to admit that I used to live in that building myself, but I got fed up with the nice tenants who sometimes threw nice obscenities at me. My brother said: "It cannot do anything. They are only words. If they hit you, then it could do something." I had to swallow that. Now, instead of buying another rental property, I bought a bungalow to pull away from them and to see them as little and as few times as possible.

Mr. Warner: Thank you.

Mr. Pierce: Mr. Hegedus, have you had a chance to look at Bill 51?

Mr. Hegedus: Yes, I have.

Mr. Pierce: Do you see any opportunity in Bill 51 for you to stay in the business of being a landlord and expand on your operation to include more housing units?

Mr. Hegedus: No way.

Mr. Pierce: Why?

Mr. Hegedus: Because of the difficulties of operation.

Mr. Pierce: Some parts of Bill 51 would allow you in some situations to catch up because you have been under rent controls for a number of years.

Mr. Hegedus: I would be afraid to go to rent review; I admit it.

Mr. Pierce: Supposedly, under Bill 51, the proposed rent review is not going to be as cumbersome as it was previously. It should be able to move any applications through very expeditiously. That is the way the bill is written.

Mr. Hegedus: I do not know whether you are aware of what is going on in controlled countries; I mean Communist-controlled countries. They have to wait five or 10 years to get an apartment. Is that what you want here? Of course, those apartments are not built by the private sector but by the taxpayers. Those who are operating stores, businesses and those who have bungalows have to pay for it.

Mr. Pierce: Are your apartment buildings in a high-rental area?

Mr. Hegedus: Medium.

Mr. Pierce: Medium-priced? Do you have people living in your apartment buildings who could afford other, better buildings or other accommodations but stay there because of rent controls?

Mr. Hegedus: Definitely.

Mr. Pierce: Do you see any opportunity in Bill 51 for you to be able to adjust your rents so you are able to catch up on what you have supposedly lost over the last 10 years?

Mr. Hegedus: No. I am afraid I have no hope.

Mr. Pierce: What does Bill 51 represent to you as a landlord?

Mr. Hegedus: Socialist type of control. When I say "socialistic," I mean communistic because it is communistic. The governments are making all the tenants welfare people. They are really welfare people.

Mr. Pierce: Do you have people in your apartment who could afford better accommodation?

Mr. Hegedus: Yes. In one case, parents and two adults are living there and they could afford four times the rent they are paying now.

Mr. Pierce: Your accommodations are up to a standard that satisfies them and at the same time the rent is such that it pays them to stay there.

Mr. Hegedus: Yes.

Mr. Pierce: Is your building in good condition?

Mr. Hegedus: Yes, at least so far, but I am not going to improve it much because I do not have the money. I want to have a little income from it.

Mr. Pierce: Thank you.

Mr. Chairman: Any other questions? If not, thank you, Mr. Hegedus, for presenting your views to the committee.

Mr. Hegedus: Thank you.

Mr. Chairman: The next presentation was to be from Diane Lazazzera, but I understand that Mrs. Kathleen Lawrence is here in her place. Please come to the table. Welcome to the committee. Do you have a written presentation?

Mrs. Lawrence: Yes, I have a written one.

MRS. KATHLEEN LAWRENCE

Mrs. Lawrence: I am speaking for my husband and myself and many other tenants who feel we are not protected as landlords appear to be protected.

We know there are good landlords and bad landlords and we feel we have a right to be protected from the latter. The rent guidelines shown in Bill 51 as it now stands do not seem to help us to live in peace but will continue to help landlords to make excessive profits.

The problems in our apartment since March 1985, when there was a new owner, are affecting our health in many ways. This should not be allowed to happen. I wish to point out some of the problems we have.

Many of us have very old stoves and fridges--in our case 25 years old--which are still working only because we have cared for them. We have windows and doors to balconies that let in terrible draughts. Some windows do not close properly and some have cracks in them. The windows ice up on the inside in the winter months. The doors to the balconies do not have locks and the inside bolts are very insecure. Our kitchen fittings are very worn with age and constant use.

We have never had our individual apartments inspected and I suggest that before this bill is passed they should perhaps be inspected, maybe by ministers. This could be one way to prove our point. Requests for this could be made if a system could be set up.

The rent review system does not appear to give the tenants the recognition they rightfully deserve. Our own rent review meetings were a farce. We were told, "If the tenants are displeased with the way the complex is run, either because the landlord spent too little or too much on it, they are not without recourse as they can move out of the building." It is no wonder the tenants are afraid to complain and many are scared of eviction.

Many wonder where the commissioner would suggest they move to. What is available is not affordable. Our apartment building did have 49 apartments, but now it has 51 since the recreation room in the basement is being made into two apartments.

19:20

Much unnecessary work has been done, which has allowed our rents to be raised 30 per cent. But while much of the work that has been done was really not needed, there are many things in the apartment that do need doing. We had a security system installed that is almost laughable: a television monitor at the front entrance while we have a back door that is easily prised, and has been a few times.

All we asked for and wanted was good safety locks on the front and back doors. The system installed is much too elaborate for this type of building, which is 26 years old; I think it is 27 years old now. We did not need such a system at a cost to the tenants of \$27,000 a year on lease. Why should this cost go directly to the tenants? We do not think these kinds of extras should be allowed just to allow the landlord to raise the rents. It has not given us a feeling of safety and does nothing for our health and contentment.

Will the landlords under Bill 51 still be able to force this kind of expense on to the tenants without consulting the tenants first?

I personally do not like the term "chronically depressed rents." It is a bit open. A term such as "affordable housing" could perhaps be used. After all, that is all we ask for. We are not asking to be given anything; we are just asking for fair play.

If the present system is not altered, there are going to be more and more problems not only in our own apartment building but also in many others. What is to stop such landlords from doing cosmetic work here and there, adding expensive extras, upping the rents all out of proportion and then selling the building? It appears to me that the tenants must be considered a little more than they are at present. I have never heard of a poor landlord.

Bill 51 does not seem to consider fair tenants' rights. It is obvious that the tenants' health in our apartment building is being affected by all that has happened to us. The only way this can be changed is by making legislation fair to the tenants and the landlords.

I have written some letters about our problems to people in office, but it is like hitting my head against a brick wall. We need the help of the law. At the moment, we feel it is only working against us. Tenants are becoming



afraid, and this is a terrible thing. Why do we have to consider the landlords first? Surely some legislation could be proposed that would make it fair to the tenants also.

A landlord, of course, is in his business to make a profit, and we do not blame any fair person for that. But to be allowed to make large profits in such a small space of time seems terribly wrong. The commissioner, when inspecting our building between two rent review meetings, was accompanied by our owner. He was shown the newly painted foyer and the hallways, and I believe he was shown the basement and some of the new systems--heating, hot water, safety, etc.--that had been installed. He did not see or ask to see any individual apartments; so he has not seen some of the cracked windows, cracked walls, old stoves and fridges, fans over stoves that do not work and are no longer repairable and other things that should really have been inspected.

On seeing the paint work, I believe the commissioner said he did not know why we were complaining. His consideration to our individual apartments was nil. All of our owner's evidence at rent review was accepted without question, even to that of 40 trees planted in October 1985--you can see section 35 of the commissioner's report--which he said had been omitted. We do not have and have never had 40 trees around our whole building, including those on the north side of the building, which have been there for 25 years, and the hedges at the back of the building, planted at the same time. We were there.

Will Bill 51 provide stricter inspections of landlords' claims?

The commissioner said at our rent review meeting that the tenants were aggressive towards the landlord. I do not agree with that. We have may have been a little hostile, but I think the ministry could understand that. How could we be aggressive and offensive when we were allowed to say so little? When we had our hands raised, we would hear the commissioner start on his next invoice, completely ignoring us and our hands, which I must add were held up very patiently. If anyone was aggressive and offensive, it was our landlord and his lawyer, who were openly rude to the tenants, especially so when we were told that we need not reside here.

If Bill 51 goes through as it is now, will tenants still have to put up with this sort of abuse?

If this building, and I suspect many others, were under fair legislation, I think this situation could change for the better, not only for tenants but for landlords also. A landlord then would not purchase a property with the intention of making huge profits in a short time, but purchase one because he wants to be in business where he can make a fair profit.

These are my statements. I thank you for listening. I am asking that some changes be made before Bill 51 becomes law. Please consider us, the tenants, and not only the landlords. We only wish to spend the rest of our lives in peace, comfort and good health. We are not able to under the present legislation.

Mr. Chairman: Was the rent review hearing to which you refer the one we read about in the paper or could have read about it in the paper?

Mrs. Lawrence: Yes.

Mr. Chairman: Are there any questions of Mrs. Lawrence?

Mr. Cookson: Mr. Chairman, do you allow questions from the gallery?

Mr. Chairman: No, we have not done that because of the position in which it could put some of the witnesses and so forth in defending themselves.

Mr. Warner: Mrs. Lawrence, I just want to go back over a few of the details. The landlord asked for a 30 per cent increase in his rent. Is that correct?

Mrs. Lawrence: Yes.

Mr. Warner: The rent review commissioner not only allowed the 30 per cent, but in fact stated that the landlord should be entitled to 35 per cent.

Mrs. Lawrence: Yes.

Mr. Warner: At the time when he decided to make major renovations, did the landlord approach either the tenants' association or individual tenants with respect to whether the changes would be welcomed or needed in the building?

Mrs. Lawrence: No. He did come to a meeting once. I do not know if anyone here has met our owner. He is very difficult to talk to. He would not listen; he would only talk. If we tried to say anything to him, he would just talk back and we could not talk to him at all, so we could not make any--

Mr. Warner: I am acquainted with the owner. I understand as well that in addition to the 30 per cent increase, and this is under appeal, the owner is now asking for a further 20 per cent next year.

Mrs. Lawrence: I read something about this in a letter or paper somewhere.

Mr. Warner: But he couched it in terms of an intimidation: "Withdraw your appeal and then I will not proceed with the 20 per cent increase I am planning for next year."

Mrs. Lawrence: Yes.

Mr. Warner: Again, obviously without consultation.

Mrs. Lawrence: Yes.

Mr. Warner: The tenants are faced with a proposed increase of 50 per cent in their rents over two years. Through that whole process there is no consultation, nor do you have any guarantee of any kind of consultation.

Mrs. Lawrence: No. I read an article in the newspaper yesterday. I believe Saturday's paper said we were to receive a letter stating this; that if we did not appeal the 30 per cent, then he would not go for another 20 per cent next year. As far as we know, and we know most of the tenants, none of them has received such a letter. The newspaper printed that he had given us the letter.

Mr. Warner: Yes. There is a letter. He sent it to the solicitor acting on behalf of the tenants. I have a copy of the letter in my file. What would you like to see built into Bill 51, or any other legislation, that would be of assistance to the tenants in view of the type of experience you have had?

Mrs. Lawrence: Perhaps I should say, first, one thing I do not like in there is the part that says you can talk things over with your landlord. If you know our landlord, you know you cannot talk things over with your landlord.

I would like to see inspections of individual apartments, each person's apartment and not the building. Anyone can look at balconies that are painted on the outside because they were rusty, but they are not painted on the inside, which is still rusty. They can look at things that are done in the hallways. You can do some paintwork there and it looks good.

What we need is individual apartment inspections. I know they could not do them all, but if someone had a problem, if he knew where to go to ask for a proper inspection. I would like the landlord to be able to do this, but our landlord will not and does not.

19:30

Mr. Warner: In your situation, what should have been the priority in your building if the landlord had been prepared to invest some capital?

Mrs. Lawrence: For safety reasons, if nothing else, he should have looked at the old stoves and fridges. My own are 25 or 26 years old now. The wiring is very bad, and it has been rewired at odd times. The refrigerators are getting very bad. They take a long time to freeze when you defrost them and then they defrost again. They are still working because we have looked after them. I think his priority should have been to look at these, and to look to see whether there were cracked windows in the individual apartments. We definitely did not need the safety system he has put in for \$27,000 a year. What we needed and asked for were strong locks on the back and front doors.

If I may have a little time to explain our safety system, the television camera goes to the foyer front door, but we have a long passageway and a back door. That back door has been broken into three times. The lock is so poor. I think he should have put very strong locks on the doors. We did not want the \$27,000-a-year system. Some of them still do not work.

That would be where the priorities are. In the individual apartments, there are cracked walls and very worn-out kitchen sides. My kitchen sides bend like this now and carry water because they are so old and worn. A lot of things should have been done first.

Mr. Warner: I think this is particularly important, aside from the question of the judgement exercised by the commissioner in his statements that the landlord could allow the building to deteriorate and the answer for the tenants was to move out. That is what the commissioner stated. Aside from that argument, if you suppose for a moment that the commissioner is absolutely justified in the 30 per cent which he allowed, it means that, without any consultation, tenants are the so-called beneficiaries of what the landlord decided to put into the building, none of which was wanted or asked for by the tenants, but the tenants will get hit with a 30 per cent increase.



If the letter is accurate--and I have no reason not to believe its accuracy--the landlord intends to hit the tenants with another 20 per cent next year. These tenants are faced with a 50 per cent increase and it all could potentially be justified through the existing rent review system, without any consultation whatsoever with the tenants. Every tenant in that building would tell you that a 25-year-old stove or refrigerator is certainly more important than an elaborate security system. It seems to me that one of the weaknesses is that we do not have a guaranteed consultation between tenant and landlord before a capital investment is made in that building. That is something that needs to be seriously considered.

Mrs. Lawrence: Excuse me, may I say one thing? When our landlord first took over this building last year, he came in to see his tenants individually and it was the only time I have ever actually spoken to him. I said to him: "Well, as you can see, I look after my apartment. It is decorated and cleaned and looked after, but I do need a new fridge and stove. Mine are so old. When you can manage it, I would appreciate that." He said: "Well, Mrs. Lawrence, I could do you a favour. I will get you a new stove and refrigerator and all you have to do is pay me \$30 extra a month and I will store these two old ones free for you." My husband was sitting there. Those were his exact words. I said: "I am sorry. I cannot afford an extra \$30 a month or I would buy a fridge and stove."

Mr. Warner: It is hardly your responsibility to provide the stove and refrigerator. That is the landlord's responsibility. Presumably, he could get the money twice then. He could still get it out of rent review, with the capital investment, and tack it on your rent as an extra and still get the money back from rent review. That is a challenge for the committee.

Mr. Stevenson: If you could put yourself in a little more favourable environment with your landlord, and if he came to you with a proposal to put a new fridge and stove into your apartment and to correct the poorly sealed doors and cracked windows, etc. would cost you an increase in rent of 20 to 30 per cent, and that was explained to you with the contractor's figures and so on there in front of you--

Mrs. Lawrence: No.

Mr. Stevenson: I say, if it was.

Mrs. Lawrence: Oh, if it was. I thought you said it was.

Mr. Stevenson: If it was, how favourably would you look at a rental increase of that size if that sort of work was done?

Mrs. Lawrence: If that sort of work had been done and the other expensive work that we did not need was done, I would have looked at it favourably. In fact, my husband and I thought that maybe we would get a 10 or 15 per cent increase because of his doing things such as that. But he does not talk to anyone; he does not listen to anyone. Therefore, you do not get any understanding from him whatsoever. It is a very difficult situation he has put us in, and at 65 you do not need that.

Mr. Stevenson: If I can reword your comments slightly and ask you if my interpretation is correct, you are prepared to pay fairly significant rent increases if the money is spent on things you feel are necessary to keep your apartment and the surrounding building in a reasonable state of repairs.

Mrs. Lawrence: I would say yes, but of course I am only speaking for myself. I do not know what the other tenants would accept. As for my husband and me, we would accept 10 to 15 per cent if he did the things that were necessary. I do not know whether he even cleared with us what he has done which is unnecessary.

Mr. Stevenson: Thank you.

Mr. Callahan: Is this building occupied by seniors?

Mrs. Lawrence: No. There are young people in it. There are quite a few people who have lived there. There is someone else who has lived there 27 years. We were the second tenants, with 26 years, and there are some with 20, I believe. Especially in the past year, there has been a lot of coming and going; so there are quite a lot of younger people there.

Mr. Callahan: Are you aware that, in advance of this bill being put forth, there was a committee of nine landlords and nine tenants who sat and more or less debated their respective positions and arrived at a compromise?

Mrs. Lawrence: I did not know about that.

Mr. Callahan: Are you aware that under the act there will be certain standards that have to be met? The municipality would be required to enforce those, and if they find a landlord is not in compliance with certain maintenance standards, any applications he might make for a rent increase would not be allowed and it would be put on hold.

Mrs. Lawrence: No. I think I have read something about that some time, but it did not apply to what he did.

Mr. Callahan: Are you also aware that on an application by a landlord to the minister or a review board, they can refuse to recognize all or part of capital expenditures if they determine they became necessary as a result of a landlord's ongoing, deliberate neglect? For instance, did you pay for your own heat in that apartment?

Mrs. Lawrence: No, it is all together.

Mr. Callahan: It seems to me that in not fixing the windows the landlord was just adding to his costs by allowing this.

Mrs. Lawrence: Yes. This is another thing we remarked on. It would save on the heating, because our windows ice up on the inside in the winter.

Mr. Callahan: I expect that with reference to those items you have referred to, under the act you would be in a position to notify the municipality, which perhaps you were not before, and if the procedure works properly, there should be someone who would come out and make a determination on whether that meets the standards of the municipality.

Mrs. Lawrence: We have a great deal of trouble in Scarborough in getting anyone to come and look at what we--

Mr. Callahan: In the past, you probably would have had, because the previous bill did not provide for anything of that nature.

19:40

Mrs. Lawrence: I have read part of Bill 51, but, of course, I have no time to read it all. We do need the actual in-apartment inspections. This has never been done by anybody.

Mr. Callahan: I appreciate that. In the past, it was a question of the landlord and the tenant presenting evidence. If you were not represented and did not know how to put the evidence forward, the side that did it in the poorest way usually wound up losing. The whole process has been changed. You go before one party who examines both sides and determines the reasonableness of it in a much more informal atmosphere.

Mrs. Lawrence: If that could work, it would be fine. We are getting very frightened of the word "eviction," because we hear it from the owner very often.

Mr. Callahan: We have also been told by the major representatives of the committee that sat down and discussed this, both the landlord representative and the tenant representative, that if we as politicians interfere with this bill to a large degree, we could offset a balance that has been created, one that is certainly going to enhance the position of tenants and landlords alike. Were you aware of that?

Mrs. Lawrence: No, not really.

Mr. Callahan: Thank you. Those are my questions.

Interjections.

Mrs. Lawrence: It is in the law but it does not get done.

Mr. Callahan: We do not know until the act is in force. I agree with you, Mrs. Lawrence. I have represented many tenants in the past on rent review applications and in many cases it was a question of who had the representation.

The interesting comment you made is one I found among most tenants, that they would not deny their landlord a reasonable return on his investment as long as he provided reasonable accommodations to live in. I found that even in the past, but in approaching the mechanism before, it did not provide a fair shake for tenants nor did it necessarily provide a fair shake for landlords.

Mrs. Lawrence: Since we have been in the building, we have paid the regular rent increases all the time. I know housing is not spirited up, but it is an old building. It takes a lot more care, but it is a good building. It is well constructed so it does not need a lot of that sort of work done on it. It just needs good upkeep.

Mr. Reville: Thank you, Mrs. Lawrence, for coming to see us after what must have been a terrifying experience. Please sit down. I want to ask you some questions. It was very brave of you to come after your horrifying experience at rent review.

To follow up on Mr. Callahan's question, when the government brought forward this bill, it made much of the fact that the recommendations in the bill were developed by a joint landlord and tenant committee. Just so we are absolutely clear, did any of the tenant representatives talk to you or to any of the other people in your tenants' association as far as you are aware?



Mrs. Lawrence: We had a few meetings with our tenants' association and we talked about the different things that were being done, but not anything--the owner says, "Do you agree to having this done?" There was nothing like that.

Mr. Reville: I am talking about this bill. Did you have some consultation with the tenant leaders on the Rent Review Advisory Committee about this bill?

Mrs. Lawrence: No, we did not.

Mr. Reville: You got a 30 per cent increase and you are going to appeal that.

Mrs. Lawrence: We are appealing it.

Mr. Reville: The bill changes the rules as far as the statutory rent increase is concerned as well. You have probably been used to a period of eight per cent, six per cent and four per cent.

Mrs. Lawrence: Yes.

Mr. Reville: Do you understand the new guideline for rent increases without a landlord going to rent review?

Mrs. Lawrence: No, I do not exactly. I understood by the headlines in the paper and everything that you cannot pay more than four per cent and then you cannot pay more than 5.5 per cent. You tell somebody about this increase and they say, "You cannot do that." We say: "They have done it. We are trying to fight it because it is wrong."

Mr. Reville: I guess you find talk about four per cent or 5.5 per cent a little bit silly.

Mr. Pierce: Have you had a chance to read Bill 51?

Mrs. Lawrence: I have read some of it. I have not been able to read all of it.

Mr. Pierce: In section 14, the bill sets out what is called a Residential Rental Standards Board. Supposedly that board will establish criteria and minimum standards for all apartment buildings and minimum maintenance programs that have to be conducted in apartment buildings. Clause 14(2)(d) is where you would fit in best with your tenants' group and your landlord. It says there will be a method for providing adequate dialogue between the landlord and the tenants on a timely basis. Do you see that actually working in your situation?

Mrs. Lawrence: It is difficult to say, but it is impossible in this situation, as anybody on the underdog side who has met a landlord knows.

Mr. Pierce: Section 15 sets out the standards and the appropriate body that will make sure these standards are adhered to. Again that is the municipality. The municipality will have an inspector go around and make sure your building is in the proper condition to allow the landlord to apply for and receive any additional rent increases. Do you see that as being any different from what you have today in the municipality where there are maintenance and occupancy bylaw requirements that standards be established,

and if they are not, the municipality can enforce those standards on the landlord?

Mrs. Lawrence: If we had proper inspections of the apartments and each separate apartment building, yes, but not just a look at the building, the painted walls and carpeting. That is just cosmetic work that is done to put up the rent.

Mr. Pierce: In your situation, given your presentation this evening, I see that section 14 and section 15 of this bill will probably have greater impact on you as a tenant than any other sections of the bill combined. First of all, the standards have to be brought up to date and somebody has to be prepared to go in there and do the inspections. You must have access to that person and then have dialogue with the landlord.

Perhaps it is unfair of me to ask you, but I would like to know whether you have had a chance to study those two sections of the bill. Do you see that just by the passage of this bill you will have something different now that you did not have yesterday.

Mrs. Lawrence: That would be wonderful. What page did you say that was on?

Mr. Pierce: Pages 10 and 11 of this bill.

Mrs. Lawrence: I did not get hold of this book until the day before yesterday.

Mr. Pierce: These two clauses supposedly give you better access to your landlord. There have been some wording changes. "A method for providing adequate communication and consultation" has now been changed to "a method of providing for adequate dialogue between the landlord and the tenants."

Mrs. Lawrence: Strangely enough, I had marked that in my book.

Mr. Pierce: I can appreciate your marking it. In listening to your presentation, I think it appears the biggest problem you are having is communication with your landlord.

Mrs. Lawrence: Our biggest problem is the landlord. We certainly cannot talk to him.

Mr. Pierce: I assume the landlord is saying, "The biggest problem I have is the tenants."

Mrs. Lawrence: Yes. He says we are not reasonable at all.

Mr. Pierce: I would really like to know if it makes you feel any better when you go to bed at night to know that those two sections are in the act, that you will now be able to talk to somebody and everything will come up roses.

Mrs. Lawrence: If we were to talk to the landlord and discuss these things, would somebody else be with us?

Mr. Pierce: The act does not say that; it just says they will establish methods to provide for adequate dialogue. Perhaps Mr. Peters can tell us what will happen in that respect.

Mrs. Lawrence: We had a tenants' meeting and we invited the landlord. We invited him more than once, but he came once. That was a complete farce because there was no sense in the whole evening. We cannot say to him, "Will you listen to our point of view, please?" He just rambles on and there is nothing heard from our point of view at all.

19:50

Mr. Chairman: In view of Mrs. Lawrence's comments, perhaps Mr. Peters can comment on just how that would come about.

Mr. Peters: There are two things. First, if the members of the committee will recall, we talked about the administrative review process. That process was established to begin the process of dialogue and communication between the landlord and the tenant. In fact, the time limits for that information to be reviewed by tenants--it was that the landlord application increases significantly. Provision exists in the act to have a meeting between the landlord and the tenant groups if necessary or, for that matter, if requested.

Over and above that, section 14 allows for that dialogue. I hope the process will be one where that dialogue does take place. When we talked about administrative reviews, I said one of the key principles of that was to remove what oftentimes is an adversarial process. It appears to me, at least in part, that process may have occurred during this last application to the Residential Tenancy Commission. We hope that over a period of time that dialogue and discussion will take place. The act certainly allows for this and it is something we want to foster.

Mr. Warner: At the rent review hearing, were the tenants represented by legal counsel?

Mrs. Lawrence: Yes.

Mr. Warner: Were the tenants satisfied with the representation they received?

Mr. Lawrence: I think so. It was so difficult, even for a legal representative, because when she had papers to give to the commissioner, he would not look at them. He sort of put them aside. He looked at the landlord's papers and put ours aside and said he would look at them later. We do not know whether they were ever looked at.

Mr. Warner: I want to clarify for Mr. Callahan that the tenants in this situation had good representation. It is not as though they went in to the hearing unarmed. They made their presentation in a very professional way; despite that, they were hit with a 30 per cent increase.

Mr. Callahan: That is ancient history in a sense.

Mr. Warner: No, because as I read section 14, nothing changes. If the owner of the building still declines to carry on a meaningful dialogue--

Mr. Callahan: Look at section 29, Mr. Warner. It clearly provides the minister with the power on any application to "conduct any inquiry," to "question any person, by telephone or otherwise," to "convene a meeting between the parties to the application," etc. Under subsection 5, should any of the parties fail to comply with the direction of the minister, particularly



under clause 1(d), he can refuse to make an order granting the application.

Mr. Warner: He may.

Mr. Callahan: If that is not different from what went on before, I do not know how--it is totally different. It was an adversarial system before that required a party seeking to advance a cause or defend a cause to bring forward persuasive evidence for the person hearing it. I suggest that is ancient history. It is counterproductive to try to relate this to what happened before because the procedure has changed.

Mr. Warner: You are proposing a change.

Mr. Callahan: If the bill is passed--

Mr. Reville: On a point of order, Mr. Chairman: Surely we are geared to listen to what the deputant has to say and not exchange this interesting committee chat.

Mr. Callahan: I am only trying to correct for the witness what Mr. Warner is saying.

Mr. Warner: I apologize. I did not mean to engage Mr. Callahan in debate over the bill, clause by clause.

Mr. Reville: It is difficult to avoid sometimes.

Mr. Warner: My only point was that I do not believe the concerns that Mrs. Lawrence raised with respect to her building, the hearing and the actions of the landlord are necessarily answered in the bill. That was my only point; obviously, it is debatable.

Mr. Pierce: Mrs. Lawrence, for clarification, do you consider that the complex you are living in is middle rental, high rental or low rental?

Mrs. Lawrence: It is middle rental.

Mr. Pierce: Is it comparable to what is in the neighbourhood for the same type of apartment building?

Mrs. Lawrence: Yes.

Mr. Pierce: Has there been any objection up until this time on normal rent increases, other than the usual complaining, without objections being filed?

Mrs. Lawrence: None at all. No.

Mr. Pierce: We all complain about any increase, unless it is in wages.

Mrs. Lawrence: I would like to know what we should do in the predicament we are going to have again. I hate to be predicting but it is true. We had a very cold winter in the apartment with a new fixture that has been put on. We could not get people to come up and check the heat. Eventually, I did get someone from the health department to come up one morning. When I got out of bed it was 60 degrees and I was quite cold. By the time the inspector came, the temperature had gone up to 68 degrees. The owner

was given a letter to the effect that our heat was all right, but by that evening it was down to 60 degrees again.

In our position we do not know how to fight these problems any more because we are getting the wrong reactions and, somehow, the wrong people. I would like to know what to do. There is no hot water in the winter. It gets cut off and then it comes back on again. We never had these problems before March 1986.

Mr. Chairman: Correct me if I am wrong, but under the present system the only recourse is the local health board. Under the new system, when and if this bill becomes the law of the land, the standards board will deal with it.

Mr. Callahan: That is, if it is passed before the weather gets cold again, Mrs. Lawrence. You might encourage the politicians to do that.

Mr. Chairman: That is a big "if."

Mr. Pierce: In clarification, do not forget it is not just the standards board. It still requires an inspection by the municipality or by somebody appointed by the municipality. It is not just a case of calling the standards board; the inspection has to be done by a building inspector who is appointed by the municipality, so Mrs. Lawrence's problem of getting an inspector into the building is not going to go away with the passage of this bill.

Mr. Callahan: Surely, if an inspector comes into Mrs. Lawrence's apartment and sees great, wide gaps between the windows, it would not take much--

Mrs. Lawrence: There are not great, wide gaps.

Mr. Pierce: Let us not exaggerate what Mrs. Lawrence has said is a problem.

Mrs. Lawrence: There are drafts coming in the windows, the building is cold and ice does form on the inside. In the mornings, it does get pretty cold.

If you call at eight o'clock or 8:30 in the morning, you usually do not get someone to check it until mid-day or after, but by then the temperature has gone up because I put my stove on to try to warm it up. It is cold. When I cook dinner in the evening, it is nice and warm. When the stove is off and we are sitting down enjoying an evening, we have to cover ourselves in blankets because it gets cold again. This did not happen in 25 years; now that it is happening, we do not quite know how to deal with it.

Mr. Pierce: That is when you call the ministry.

Mr. Chairman: There is no easy answer.

Mr. Callahan: Under the adversarial system, if you take a picture of that or have other witnesses testify that is the case, you probably would have grave difficulty. Under the proposed process, all these things are going to be on the table and the landlord is going to have to answer to them. If he is shown a picture of frost on the window and he says, "That is part of the decoration," the person hearing it is probably going to laugh at him. With the process not being adversarial, you will be able to provide such things as

photographs and to bring in witnesses who can confirm that in the morning there is ice on the windows. I think it is an entirely different picture.

Mrs. Lawrence: The ice stays there all day once it does ice up. It stays all day. I am not trying for exaggeration at all.

Mr. Callahan: Having been involved in the adversarial process that you are talking about, I see it as a much better process. I have great empathy for you in how it would be conducted.

Mr. Warner: The new system is still involved with the municipalities through property standards. Is that correct? Then the government is prepared to put money into hiring inspectors, I take it.

Mr. Reville: It has not said so.

20:00

Mr. Warner: The municipality that Mrs. Lawrence is from is Scarborough. There are approximately 200,000 tenants and I think there are six or seven inspectors. Just look at the numbers. If the government is prepared to put money into the municipality to hire property standards inspectors, that is great. Maybe Mr. Callahan is going to make that announcement tonight.

Mr. Callahan: Obviously, I cannot announce that, but I think the legislation under section 15 is clear that if the municipality determines it is substandard, it shall notify the minister, and then the minister will have the notification from which he can prevent a rent increase from taking place.

Mr. Warner: Who does the inspection?

Mr. Callahan: The inspection is done by the municipality.

Mr. Warner: Right.

Mr. Callahan: According to subsection 15(3), "Where the council of a municipality determines that a residential complex, or any...unit...therein, does not comply with the standards, the council shall give notice in writing to the minister."

Mr. Warner: You are suggesting that the six or seven inspectors in Scarborough will be able to adequately cover the buildings occupied by approximately 200,000 people.

Mr. Chairman: Mrs. Lawrence, the message that should be coming through to you here is that if that problem occurs again this winter, you should be on the phone to your local alderman and to your local MPP, whoever that might be, and perhaps even to the Minister of Housing (Mr. Curling), who represents a Scarborough riding as well. We encourage you to heat up the telephone lines if those same problems occur this winter. In the short term, at least, until all these other things get resolved, that probably is your only solution.

Mrs. Lawrence: Excuse me, sir. I spent a lot of my time phoning about this problem about hot water last year.

Mr. Chairman: Yes. I believe that.



Mrs. Lawrence: Nothing happened. Do you think this will happen if Bill 51 passes?

Mr. Chairman: That is a very difficult question.

Mrs. Lawrence, thank you. You have helped breathe life into a piece of legislation for those of us who too often legislate simply legalese, and you have brought some real problems to the committee that I do not think we will be able to avoid thinking about when we get into the clause-by-clause debate.

Mrs. Lawrence: I hope it can have positive results. Thank you.

Mr. Chairman: The next presentation is by Jim Cookson. Is Mr. Cookson here?

Mr. Cookson: Yes, he is.

Mr. Chairman: Good. Mr. Cookson, have a seat. We welcome you to the committee.

JIM COOKSON

Mr. Cookson: Thank you, Mr. Chairman. I would like to submit these pictures of the buildings I own. During my presentation you can see them. There is some writing on the back of them.

Mr. Chairman: We shall pass these around.

Mr. Cookson: I had an interview with a Mrs. Johnston at the Residential Tenancy Commission, located at 2100 Ellesmere Avenue, unit 302, Scarborough, in the spring of 1985. Forms were made out to initiate the rent increases. From information therein contained, I was advised that the figures would not justify any amount above the legal limit.

Consultants seem knowledgeable and competent and further advise doing things to buildings to create a capital expenditure. Return on their value, on those pictures I have shown you, averages a low 6.7 per cent. If capital expenditures are needed under present legislation to increase rents, the process becomes self-defeating. The rent increases are amortized to cover costs of capital expenditures. Building value is increased by the capital expenditures; for example, aluminum eaves, replacement windows, appliances, etc. The already-low 6.7 per cent net return is then reduced until the amortization period is over, which would be a few years down the road.

The point I ponder is incentive. Motivation is reduced as a result of inadequate returns. This commission is faced with making laws to suit the industry whether buildings are controlled by corporations or small investors such as myself. Perhaps gouging does exist by some, but not all, requiring provisions in the law to compensate fairly.

I have been renting property for 20 years and with that background, the following are my comments about legislated controls. In the eyes of many, landlords are made out to be Simon Legrees, Scrooges and money-hungry leeches sucking the last pennies from those in society who are renting. Why else were controls brought in? Renters are made out to be poor and unfortunate, which in some cases may be true. Some, however, are saving for down payments, and many more are industrious, working people whose preference is to rent. Renting is more carefree, giving freedom from responsibility over the many cares, tasks and unexpected expenses of ownership.

Renters are numerous but landlords are few, so it becomes politically expedient to legislate in favour of renters. Present legislation is crippling the industry in reducing accommodation for leasees. Developers have ceased to build rental facilities and many developments have converted to condominiums. Rent review has created major problems in the industry. A continuation in tightening the policy has increased its downhill slide. When an apartment becomes vacant, a lineup forms for the accommodation.

Are we now sitting at less than one per cent vacancy rate with the development of rental units at a standstill? My rented acquisitions are one triplex, one duplex and one three-bedroom bungalow. The bungalow was sold last September. Why a decision to sell it? It sold for \$103,500. The net year's revenue was \$5,970 or 5.76 per cent of its value. What person in today's and past years' market is satisfied with a five-and-three-quarter per cent return on investment?

The triplex in 1985 was worth \$145,000. The net year's revenue was \$9,077, or 6.26 per cent of value. The duplex in 1985 was worth \$100,000. The net year's revenue was \$7,380, or 7.3 per cent of value. On property worth \$245,000, a net year's revenue of \$16,457 or 6.7 per cent of property value is a far cry from a profitable return on investment with no consideration for maintenance, duties and responsibilities performed by myself.

Many consider an ideal formula on rental property to be one per cent of value per month equals rent. There are a few reference books giving that formula, and one of them is David Ingram's book on page 102.

## 20:10

In applying this formula to the triplex at \$145,000, gross would go from \$13,630 per year to \$17,400 per year. The net value would be \$12,857, or 8.8 per cent of building value. This would result in a scale per apartment as follows: Apartment 1, which is at \$371, would increase to \$470 or 26 per cent. Apartment 2 would go from \$371 to \$490, which is another 26 per cent increase. Apartment 3, at \$393, would go to \$490, which would be a 25 per cent increase.

In applying this formula to the duplex at \$100,000, gross would go from \$9,312 per year to \$12,000 per year. Net would be \$10,068 or 10 per cent of building value. Apartment 1 would go from \$388 at present to \$500, which is 29 per cent. Apartment 2, at \$388, would go to \$500, again 29 per cent.

I have received information from Canada Mortgage and Housing Corp. on some average rent increases for CMHC-supervised one-bedroom apartments. These are average prices, from April 1984 to 1985, for one-bedroom units from Mississauga to Ajax, compared with my two-bedroom units, the triplex in Oshawa and the duplex in Newmarket. In 1985, the CMHC one-bedroom unit built before 1975 was \$402, Oshawa was \$378 and Newmarket was \$388. The differences between those prices are \$24 and \$14. In 1984, CMHC was \$376, Oshawa was \$359 and Newmarket was \$366, differences of \$17 and \$10. In 1983, the one-bedroom unit was \$357, Oshawa was \$339 and Newmarket was \$345, differences of \$18 and \$12. In 1982, the one-bedroom unit was \$330--I can go right down to 1979. I am sure you are not interested in all these figures.

For those built after 1975, which were uncontrolled rents on one-bedroom units, in 1985 it was \$563, a bigger difference; in 1984, it was \$524; and in 1983, it was \$491. On the uncontrolled rents, I have to go down to 1981 to come out with the same amount I am getting now on a one-bedroom unit.

The differences I have made here represent substantial revenue that has been lost over three years on a comparative basis--on these years, on a comparative basis--with no allowance for the size of my apartments.

Oshawa Utilities discontinued hot-water-tank rentals the same year as rent control started, in 1976, and Newmarket followed. The responsibility at replacement time became the landlord's. I replaced one in 1977, one in 1978, two in 1980 and one in 1983. This action eliminated a tenant expense and added one more burden to the landlord.

I submit to you these. There are many service increases through the years from these formal notices. We have always got an increase every year, but I would like to highlight these ones.

Commission notices for Oshawa increased electricity rates by 11.3 per cent in 1981 and by 10 per cent in 1982. I pay for the electric heating in that building. Published water and sewer rates for Oshawa increased by 29 per cent in 1981, by 22.6 per cent in 1982 and by 9.2 per cent in 1983. Newmarket water rates increased by 47 per cent and sewer rates by 78 per cent in 1982. Realty taxes have increased by 9.2 per cent in both locations for 1986.

This portfolio of CMHC contains many programs to builders from governments to induce the construction of rental units. I have underlined quite a few of the things here that are being given away just to get builders to build rental accommodations. I have summarized them in here, everything from low-interest loans, grants per unit, forgivable loans, etc. The latest wrinkle is denying a permit to build a condominium unless the construction company agrees to build a similar rental building. My assessment of the contents therein is that tax dollars from renters and home owners alike are being used to keep rents artificially low.

What is wrong with a landlord receiving a fair return on his investment? Any industry to stay healthy requires a profit. A return of 6.7 per cent of equity is substandard and can hardly be called profitable. Are landlords as a breed to become extinct, to be legislated out of business? Should those entrepreneurs through their own efforts and past sacrifices be shackled to out-of-balance controls by our legislators to make our politicians look good in the eyes of the tenants?

In earlier years, labour was getting settlements of 10 per cent to 20 per cent, plus fringe benefits. Reports published on the former settlement in July 1985 gave that trade a boost from \$12 an hour to \$20 an hour over a two-year period. That \$8 increase amounts to 40 per cent, plus receiving extra fringe benefits. Landlords, on the other hand, with the responsibility of ownership and capital invested were suppressed to six per cent increases for a nine-year period, and then it dropped to four per cent for one and a half years.

When rent control came out at eight per cent, I was unaware of the fact and I kept to a very minimal percentage of increases, such as five per cent, at that time. Where is the justice? Do you feel renters should be made aware that rents have been kept artificially low since controls were brought in 10 years ago? Do you feel rents require updating before a ceiling is considered? If a ceiling on rents is instituted, then a general overhaul of existing rents to correct imbalances, building in a fair profit to the landlord, needs to be established.

When imbalances and reasonable profits are updated to reflect today's conditions, then no apartment owner will balk. If this commission is serious



about constructive reform in its recommendations and our present government is willing to tackle the serious problem head on, then rulings will be made favouring apartment owners. If not, logic dictates to me to sell. Enjoyment would then come from receiving the same return on my equity as renters do, while shedding myself of unrealistic laws and major responsibilities.

That is the end of my presentation.

Mr. Chairman: Thank you, Mr. Cookson. Are there any questions?

Mr. Pierce: Have you had a chance to go through Bill 51 as it has been presented to the committee?

Mr. Cookson: I have breezed through Bill 51. Some of the things in there I need an interpreter for. There is supposed to be a formula, which I do not understand. Perhaps you can explain it to me.

20:20

Mr. Pierce: The explanations of the formulas are better dealt with by the people who authored them. I am going to leave that up to the experts to do.

I would like to know something further. You have said that you breezed through the bill with some study. Do you see the bill answering some of the problems that you as a landlord have faced in the last 10 years in respect to your particular rental units? Do you see anything in the bill that would excite you to the extent that you might want to increase your housing stock and make more rental units available to the people who so badly need them?

Mr. Cookson: I have a letter here from Mr. Peterson. All the statements he has made and what he is trying to put through as far as the legislation is concerned look very nice.

Mr. Pierce: Maybe we could receive a copy of the letter. I did not get one.

Mr. Cookson: Maybe you did not write to him the same way as I did. This has been on my mind. When I am receiving such a low percentage on my equity in the building, I do not see any future in it. It would be just as easy for me to sell what I have.

I am a very conscientious landlord. I heard Mrs. Lawrence's presentation and I would say that, from the tenants I have, there would be a different response. I try to be fair. I used to supply the paint for apartments. During this last year, I have become sort of callous, because I am getting a very low return now. Whatever I pay to do things only cuts down the amount of money I receive. It is a catch 22. I put money into it and I get less out of it.

When I went down to rent review, they said, "Any amount you put in has to be amortized over a 10-year period." That is fine. To get your capital back, it takes a long time to do, and you are throwing your money away for a 10-year period.

There is another side of the coin, which is the tenant.

Mr. Chairman: Would you allow a supplementary from the chair?

Mr. Pierce: Certainly, Mr. Chairman.

Mr. Chairman: Mr. Cookson, have you ever brought new units on to the market, or have you simply purchased units that were already there?

Mr. Cookson: I purchased that one in Oshawa in 1973, and in 1967 I bought the one in Newmarket.

Mr. Chairman: You have not brought new units on to the market. They were already there.

Mr. Cookson: These are controlled units.

Mr. Chairman: What I am trying to get at is whether you had actually contributed to the rental stock in Ontario or whether you had purchased units that were already part of the stock. I gather it is the latter. Those units were already there when you made your investment; you did not build new units.

Mr. Cookson: That is right. They were built and I bought them off the market.

Mr. Chairman: Thank you.

Mr. Pierce: You are a landlord and not a builder or a developer.

Mr. Cookson: I am a landlord. They were an investment for a retirement fund.

Mr. Pierce: In sections 71 and 72 of the bill, on pages 29 and 30, it gives an opportunity for a landlord to apply for higher-than-normal rents, or higher-than-normal increases. Have you had a chance to go through those two sections of the bill?

Mr. Cookson: I would look at that very favourably, but then a lot of these things seem very ambiguous to me. I would like somebody to sit down and explain them to me.

Mr. Pierce: Again, certainly the formulas enter into just what you can and cannot do and what is required.

Mr. Cookson: That is the whole key, as far as I am concerned.

Mr. Pierce: Mr. Callahan is presenting you with a quick explanation of all the formulas, I assume. I am not sure.

Mr. Cookson: I thought I had everything here.

Mr. Pierce: Mr. Chairman, perhaps somebody could explain some of the formulas in not so much detail.

Mr. Chairman: Mr. Cookson, was there something in particular that you wanted information on? We could provide it this evening for you, as long as it is not an explanation of the 55 pages of the bill.

Mr. Cookson: I think what you are trying to do is going to be beneficial in the end. I would like to see an updating in the rents I am receiving, because they are unbalanced. I have two units that are the same and I am getting different rents on them. I would like to have them standardized.

I would like to have them brought up at least to the point of this year or 1987, and start from there, instead of being slapped with four per cent, which is ludicrous.

In fact, prior to the four per cent idea coming out, I thought six per cent might continue until we get caught up on all the expenses that I have been supplementing as far as tenants are concerned. I mentioned to you the water rates, the electric rates and the taxes. I can go on and on. I have a record of them and I am meticulous as far as keeping records is concerned. My expenses expressed percentage-wise have gone up far faster than the rent increases. We want to catch up.

Mr. Pierce: Let me ask you a couple of brief questions. Do you have a large turnover in your buildings?

Mr. Cookson: No, I do not.

Mr. Pierce: The follow-up to that is, would a rent increase above the normal increase allowed under the existing legislation be acceptable to your tenants?

Mr. Cookson: Up to now and because of the situation, it has been adversarial. I think the gentleman over here mentioned this. They figure and rightly so--the tenants, with due respect, have certain rights. It has been overexaggerated because of the legislation. I get more friction now than I ever did. "You cannot do that." It is the same as I have presented here. I come up with facts and figures. If a person is not interested in listening to them, it does not accomplish anything. I have talked to my tenants. Without going through a landlord and tenant agreement, I have been able to show them what my problems are and they have voluntarily increased it beyond a six per cent increase. I do not know whether I should mention that. You might be right on my tail tomorrow and want some money back, but some of them--

Mr. Pierce: I understand it is against the law.

Mr. Cookson: My tenants are very fair and I figure I am pretty fair with them too, but I am still on the low scale and I think I am justified in getting more of an increase than four per cent or 5.5 per cent.

Canada Mortgage and Housing Corp. has mixed accommodation. Some the rents are based on income and others are market price. This is right off the computers. I have given the exact amount of average rates right across Toronto and vicinity. I am much lower and I have been much lower for years. I have lost a lot of money in comparison. I have bigger units and I bet you they are better cared for.

Mr. Chairman: Mr. Callahan.

Mr. Callahan: I did not have my hand up. I have given a copy of that book to him.

Mr. Chairman: Some things you can just assume.

Mr. Callahan: Thanks, Mr. Chairman. I have given a copy of that book to you. If you go through it with the act, you will find it will assist you. This is going to be one of the purposes, to educate the public as to what is in the act.



Mr. Chairman: Is that the guide?

Mr. Callahan: Yes. They were lying there. I could not find any others. I guess everybody has grabbed them. You are quite welcome to keep that.

Mr. Reville: Let us know if you understand it because you will be the first person who does.

Mr. Callahan: I cannot speak for Mr. Reville, but when I read it, I think I understood it and I think you will as well.

Mr. Reville: You understood Alice in Wonderland too, I imagine.

Mr. Callahan: A lot of things have been done in there. It has been an attempt to take what was in the old bill, which was adversarial and provided for an adversarial process, and bring it more in line with fairness to both landlords and tenants. If you read through it, you will find a number of areas where provision is made to bring landlords as well as tenants into a fairer position. In that respect, I suggest that the bill is eons ahead of what was in existence. I will not try to explain them all to you because we would be here all night, but if you read through that, you will find there are a lot of definite advantages to both tenants and landlords. It is a careful balancing of the two.

Mr. Stevenson: And I have some swamp land in Florida.

Mr. Callahan: It is easy to criticize, but the government that introduced rent controls introduced a system that is absolutely unworkable. This government has at least had nine landlords sit down with nine tenants for the first time in the history of Ontario and work out a bill that was a reflection--albeit a very tenuous reflection, because the landlords and the tenant leaders came before us and said to us as politicians: "If you want to play politics with this bill, you will create a problem. It is a fine balancing. If you change it dramatically one way or another, it will upset the bill and the agreement."

This government has certainly taken a giant step forward in trying to be fair to both parties and to ensure there are well-maintained buildings, as you appear to have maintained yours. I offer that to you and hope you will have an opportunity to read through it.

Mr. Cookson: Perhaps you can enlighten me then. If this bill is passed, what will be my next procedure in order to gain what I think I am entitled to?

Mr. Callahan: The application has been simplified. It is no longer a matter of going before a judicial-like body, as you have probably experienced in the past, and presenting all sorts of receipts for the things you have done. There is a given in the act as to your receipts, your operational expenses.

You meet first with a single individual, and that person tries to work out the agreement between you and your tenants. An order is then made, and if either you or a tenant is not happy with it, there is the right of appeal. This is a much speedier process that is far less acrimonious than in the past. I think there is probably far less paperwork involved in proving or disproving things. I think you will find the process itself is speedier. There are even positions in the bill where you can predetermine; you can get advance rulings,

such as from the Department of National Revenue, concerning how a particular expenditure will be dealt with.

I invite you to read through that along with the act. I think you will find it is a very delicate balancing. Neither of the parties came out total winners, but it is certainly the first time in the history of Ontario that any government has made an attempt to try to equalize or make fairer positions for both parties.

Mr. Cookson: I congratulate you on the changes you are endeavouring to make, and if it comes out to my satisfaction, I will be very happy about it.

Mr. Callahan: Read it and come back.

Mr. Chairman: That is a good suggestion. When you have gone through the guide, if you still have questions you should call either Mr. Peters or Mr. Laverty, both of whom understand the intricacies of the legislation.

Mr. Cookson: Mr. Peters, is it?

Mr. Chairman: Mr. Peters, from the Ministry of Housing. And if is a question that involves the idiocy of econometrics, then you call Mr. Laverty.

Mr. Cordiano: I am not sure where your buildings are located. You mentioned Newmarket and--

Mr. Cookson: The duplex is situated in Newmarket and the triplex is situated in Oshawa.

Mr. Cordiano: You made the comment that you compared your units to similar units in Toronto. Is that correct?

Mr. Cookson: No. I made the comparison between CMHC for between Ajax and Mississauga. That encompasses Toronto and vicinity, and I am not that far out of the vicinity.

Mr. Cordiano: You are out of the vicinity. Let us say units of similar size in similar buildings. Yours are a triplex and a duplex. If those units were located in the city of Toronto closer to the downtown core, they would probably be priced a little higher than they would if they were out in the suburbs. Would you follow that logic?

Mr. Cookson: Yes.

Mr. Cordiano: Do you agree with me then?

Mr. Cookson: Yes.

Mr. Cordiano: I bring that up because, when comparing the rent you are getting for your unit, I wonder if you are comparing that right across Metro Toronto. Is it an unfair comparison to make if you compare it to buildings in Newmarket or Oshawa?

Mr. Cookson: Oshawa is the heart of General Motors country. The employees receive as good a wage as anybody in Toronto.

Mr. Cordiano: No disagreement there.

Mr. Cookson: There is very little difference between Oshawa prices and those in Pickering, Scarborough or Aurora.

Mr. Cordiano: You do agree that rents in the city of Toronto will be substantially different to rents you might get in Oshawa or Newmarket?

Mr. Cookson: If you are talking about downtown, definitely.

Mr. Cordiano: Have you made a comparison of the rents vis-à-vis other buildings with similar-sized units in the immediate market area where your buildings are?

Mr. Cookson: My buildings are roomier than the ones I have compared them to. The one-bedroom has a dining room, electric heat, self-controls. Those in Newmarket have a carport and a covered patio. I do not think you can find that in the middle of the city.

Mr. Cordiano: This is what I am saying. Did you make a comparison of the rents you were getting with other buildings in the immediate vicinity of your buildings?

Mr. Cookson: Most of this information is coming with the thought of the value of the property in Oshawa and Newmarket and my equity in it. I can sell my property, and if I put the proceeds in a five-year debenture, I can get 10.25 per cent interest. I can put it in mortgage money. All I am getting is 6.7 per cent and I am also working to get that.

Mr. Cordiano: I do not want to argue with you there. I was simply asking if you have made any comparisons with buildings in the same vicinity as yours.

Mr. Cookson: I am in an area where there are other triplexes and sixplexes. It is a beautiful area. People strive to get into it because it is residential. It is not beside a railway track or behind a shopping plaza and it is close to transportation. Most of the landlords are like myself; they are groping to find a way to be able to get the rents they should have been paid.

Mr. Cordiano: Would it be fair to say the rents you are getting in your building compare to the rents that are being charged by other landlords of similar units?

Mr. Cookson: I cannot say authoritatively yes or no because I do not know any other landlords out there. I live in Unionville and I am a nonresident landlord.

Mr. Chairman: Thank you very much for appearing before the committee this evening, Mr. Cookson. We appreciate your presentation.

Is Mike Lettau in the room? The clerk has not been able to reach him by telephone either. Since it is 8:40 p.m., I assume he will not show up. He was scheduled for 8:30. I think that is a safe assumption at this point. If by chance he does show up later, we will squeeze him in at some point.

We stand adjourned until tomorrow at 1 p.m.

The committee adjourned at 8:40 p.m.



STANDING COMMITTEE ON RESOURCES DEVELOPMENT  
RESIDENTIAL RENT REGULATION ACT  
TUESDAY, AUGUST 26, 1986  
Afternoon Sitting



CHAIRMAN: Laughren, F. (Nickel Belt NDP)  
VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)  
Bernier, L. (Kenora PC)  
Cordiano, J. (Downsview L)  
Epp, H. A. (Waterloo North L)  
Knight, D. S. (Halton-Burlington L)  
Pierce, F. J. (Rainy River PC)  
Reville, D. (Riverdale NDP)  
Smith, E. J. (London South L)  
Stevenson, K. R. (Durham-York PC)  
Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Davis, W. C. (Scarborough Centre PC) for Mr. Bernier

Clerk: Decker, T.

Clerks pro tem: Arnott, D.; Forsyth, S.

Staff:

Ward, B., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)  
Church, G., Assistant Deputy Minister, Corporate Resources and  
Building Industry Development  
Peters, F. H., Director, Rent Review Division  
Stratford, L. A., Senior Solicitor, Rent Review Division

From the Social Planning Council of Metropolitan Toronto:

Zarnke, P., Member, Board of Directors  
Thornley, D., Program Director

From the Board of Trade of Metropolitan Toronto:

Milne, D. W., Member, Planning Committee; Lawyer, with Blott and Fejer  
Little, W., Member, Planning Committee; Vice-president, Project  
Planning Associates Ltd.  
Christie, R., Manager, Urban Affairs Department  
Voralek, D., Policy Analyst, Urban Affairs Department

Individual Presentations:

Bruckler, F.  
Erhardt, P.

Josephy, G.

Gallagher, R. A., Member, Executive Committee, High Park Tenants'  
Association; Member, Executive Committee, Federation of Metro  
Tenants' Associations

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, August 26, 1986

The committee met at 1:16 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT  
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: We have a number of presentations this afternoon. I should mention as well that we have a substitution on the committee, in the form of Herb Epp, the member for Waterloo. Mr. Epp has a long history of involvement in municipal politics and affairs and is solely responsible for the more than 100 amendments which the government intends to put to this piece of legislation. Speaking of them, I wonder if the minister or his assistant deputy minister could tell us about the progress of the amendment package and when the committee could have a look at it so that we will know when groups appearing before the committee are talking about something that may or may not be amended.

Mr. Church: Fred, do you want to update us?

Mr. Peters: There are still some amendments being drafted. There were additional proposed amendments circulated. What we have prepared is an index of the amendments to be made by section with a brief heading note. In the absence of our ability, at least now, to provide the full-blown amendments, which are still under discussion, it would probably be helpful if we tabled a listing of those amendments by section with a brief comment on what is to be amended. Then as those amendments are prepared, we will be discussing meeting with the steering committee of the committee with a view to having another bill printed, simply for the purposes of debate.

Mr. Chairman: Can you tell us when we could arrange such a meeting because I am not the only one who is anxious about this. Other members of the committee--

Mr. Peters: It would certainly be at the convenience of the committee, at your leisure.

Mr. Chairman: So the amendments are ready? Is that what you are telling me, Mr. Peters?

Mr. Peters: There are some that are prepared. There are others that have been circulated in draft form for comment to the Rent Review Advisory Committee. Then the normal process is to put them to the legislation committee after that. What I did indicate, though, is that we have prepared a listing of each amendment, its section and just a brief note as to the content of the amendment. We can bring that forward as quickly as possible and then with regard to meeting with the committee, we will be able to do that at your leisure.



Mr. Chairman: Why do not we have those comments, by section, what each amendment means, so the committee can have a look at that which would help us in determining to what extent we need to sit down with each of the amendments individually.

The first group before us this afternoon is the Social Planning Council of Metropolitan Toronto. That is exhibit number 62 in your package. We have Mr. Thornley and Mr. Zarnke with us this afternoon to make the presentation. Welcome to the committee.

#### SOCIAL PLANNING COUNCIL OF METROPOLITAN TORONTO

Mr. Zarnke: My name is Paul Zarnke. I am a volunteer member of the board of directors of the Social Planning Council of Metropolitan Toronto. With me is David Thornley, who is a program co-ordinator with the social planning council and the staff person responsible for the preparation of this particular brief. This brief was approved by the social planning council board of directors at its meeting on August 13, 1986.

The Social Planning Council of Metropolitan Toronto is a voluntary social planning organization in the Metro community whose purposes include the facilitation of active citizen involvement in the analysis of social issues, the development of social policies and the planning of human services. It exercises an independent voice in encouraging and assisting groups and individuals to develop social policies and services. The social planning council is incorporated as a charitable, nonprofit company with core funding provided for the most part by the United Way of Greater Toronto and the council of the municipality of Metropolitan Toronto.

The Social Planning Council of Metropolitan Toronto has long been a supporter of efforts to regulate the rate at which rents increase. Regulation of rent increases is a necessary complement to the Landlord and Tenant Act in securing the tenure of Ontario tenants.

We first asserted this point of view in a report entitled Rent Controls, Why We Need Them. What Kind? How Long? in 1975. Many of the measures for regulating rents put forward in that report were subsequently adopted.

The social planning council submitted a brief respecting Bill 163, An Act to reform the Law respecting Residential Tenancies, under which rents in residential tenancies are still largely regulated in Ontario. Large parts of that act were never proclaimed, as a result of the fact that the proposal to establish an autonomous court under provincial jurisdiction to regulate both rents and landlord and tenant matters was declared ultra vires by the Supreme Court of Canada.

In February 1983, we made a brief submission to the Commission of Inquiry into Residential Tenancies, the Thom commission. The most significant point made in that brief was that the balance of probabilities indicated that from 25 to 50 per cent of landlords of buildings consisting of six units and more had increased rents over and above the guideline amount in the 1980-1982 period without appealing to the Residential Tenancy Commission as the law requires. We argued for the necessity of a system of rent registration to reduce the likelihood of rents being increased illegally. Mr. Thom subsequently supported the establishment of a rent registry. We are heartened that Bill 51 contains provisions for the registration of rents in Ontario.

In addition, the social planning council published a discussion paper entitled Rent Review in Ontario and Factors Affecting the Supply of Rental Housing, in which it was concluded that rent review in Ontario had largely not been responsible for the sharp decline in apartment starts that occurred through the 1970s and early 1980s. Other economic factors, most still operative, contributed significantly to the dearth of privately initiated housing starts and to the shortage of rental housing units that has reached such critical proportions in Metropolitan Toronto.

These factors include declining new household formation, decreases in the incomes of tenant households relative to average earnings and consumer price increases, and increases in operating and financing costs relative to other costs and prices. High interest rates may have been the most significant factor.

The social planning council has undertaken and published many other studies and reports with respect to housing. In March 1984, A New Housing Agenda for Metropolitan Toronto was published. A survey of households in Metro, undertaken jointly with the planning department of the municipality of Metropolitan Toronto, led to the conclusion that some 70,000 additional households will require some form of rent-geared-to-income housing before the turn of the century. We proposed an assisted housing target of 4,500 units per year during the next 15 years for Metropolitan Toronto to address this need.

In March 1985, we published Strategies For Implementing a New Housing Agenda for Metropolitan Toronto: A Response to the Federal Government's Consultation Paper on Housing, and in May 1985, we completed the report, The Viability of a National Shelter Allowance Program: A Critical Assessment of the Steele Report for the Cooperative Housing Foundation of Canada.

In Housing: The Faces Behind the Need, October 1985, we published the results of a survey in which the 19 human service agencies in Metropolitan Toronto which participated indicated that housing problems were a major contributor to many other problems bringing clients into contact with agencies.

The board of directors of the social planning council supports the principles underlying Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes. The government has proposed a new system of rent review that potentially overcomes many of the inadequacies of the current rent review system. Some of these were inherent when the current system was established in 1975 and 1979. Others have resulted from the fact that the existing rent review system was originally adopted in 1975 as a temporary measure, part of the anti-inflation program initiated in the fall of 1975. Bill 163, passed in 1979, simply made more permanent most of the provisions of the 1975 act.

The proposed statutory guideline for rent increases will eliminate the necessity to continually seek legislative approval for changes in the guideline. It will be sensitive to changes in the costs of operating rental housing. We are supportive of the proposal to make the statutory guideline reflect a three-year moving average of operating cost increases and to make it exceed actual inflation when inflation is low and to be less than inflation when inflation is high.

The proposal to establish a provincial rent registry is both welcome and long overdue. It is essential that the proposed rent registry provide current information on actual and potential rents and anniversary dates for rent increases.

The proposal to tie the ability of landlords to take rent increases to the adequacy of apartment maintenance should provide additional impetus for landlords to keep up adequate maintenance programs.

While the proposed rent review program, nor any rent review program, will not by itself bring about market conditions conducive to increased new, private rental development, the proposed system is one that is fair to landlords. It should not therefore inhibit the development of new rental housing.

The proposed extension of rent review to all privately initiated rental housing developments will end the growth of a two-market system, one protected by rent review and one unprotected, that has begun to develop after 11 years of rent review. It will also result in increased security of tenure for the occupants of post-1975 rental housing stock.

Mr. Thornley: While the social planning council supports the new directions embodied in Bill 51, we nevertheless feel that certain changes in some of its provisions are desirable.

For example, in clause 4(1)(g) it is proposed, as is the case under the Residential Tenancies Act, that nursing homes be exempt from the application of the act. It has come to our attention that certain accommodation in which very few care services for the occupants are provided and which for the most part constitute self-contained apartments has become subject to arbitrary rent increases to the detriment of the security of tenure of the occupants. We recommend that this exclusion be modified to provide that such units be included under rent review if they contain their own self-contained bathroom and kitchen facilities. The fees charged by nursing homes should be regulated by the Ministry of Health.

In terms of maintenance, as indicated above, we support the development of province-wide standards for rental housing maintenance and the connection of conformity with these standards to the ability of landlords to take rent increases. However, we do not think the provisions of subsection 15(5) go far enough with respect to the protection intended. In situations where a landlord fails to bring a residential complex into compliance with the developed provincial standards within one year of a notice being issued under subsection 15(3), the landlord should lose the ability to take any rent increases whatsoever, in our judgement, until such compliance has been achieved. In addition, all tenants residing in a residential complex so affected should be apprised of these circumstances and notified of their rights respecting illegal rent increases.

### 13:30

In terms of the rent registry, the social planning council supports the establishment of a rental housing registry, and we have asserted this since we appeared before the legislative committee considering Bill 163 in 1979. We note in subsection 19(2) and section 66 it is proposed that the rent registry maintain maximum legal rents and that landlords need inform new tenants only of the maximum legal rents that would obtain if the landlord had taken the statutory guideline rent increase each and every year. We think this is insufficient.

Other sections of Bill 51 regulate the maximum increase a landlord may take in any one year that would limit the ability of landlords to increase



actual rents to maximum legal rents. It is, therefore, essential that the proposed rent registry maintain the actual rents charged as well as the maximum legal rents. We recommend that Bill 51 be amended accordingly and that subsection 19(2) be amended to provide that landlords inform new tenants of the actual rent charged the last previous tenant. It is also recommended that the giving of false information under this section should constitute an offence of the proposed act.

Section 53 exempts the application of the rent registry to rooming and boarding houses. We recommend the deletion of this section. It is proposed that Bill 51 otherwise apply to rooming and boarding house tenants, and it is essential that rooming and boarding house landlords and operators be required to register rents as well. In fact, this requirement is even more essential in the case of rooming houses because occupants tend to stay there for shorter periods of time. It would be remiss not to require the registry of these rents when the need to extend additional protection to roomers is being actively considered by the Ministry of the Attorney General and the Ministry of Housing.

More than 80,000 rental units in Ontario are contained in fourplexes. Many of these units rent for below average market rents. Therefore, we recommend that subsection 55(1) be amended to include buildings with four or more apartments. As a follow-up to that, we recommend that subsection 55(2) be amended to include a schedule for the registration of buildings smaller than that.

Section 68, together with schedules A and B, regulates the statutory rent increase to which landlords are entitled without applying to the Minister of Housing (Mr. Curling). We feel the proposed residential complex cost index requires amendment. We appreciate that the proposed formula for its determination operates in such a way that rent increases are depressed when inflation is rapid and that it allows rents to catch up to inflation when inflation is relatively low.

However, built into the formula is the assumption that the long-term cost of operating residential complexes will increase by six per cent on average each year. This is significantly higher than the forecast rate of inflation to 1989, when it is proposed that the Minister of Housing review the formula underlying the residential complex cost index.

We note that several provisions of Bill 51 allow for maximum permitted rents in excess of actual rents. They include protection against both financial and economic loss, and there are a series of assurances of a reasonable rate of return on invested equity and capitalized losses. In addition, it provides for forgiveness of past illegal rent increases under certain circumstances.

Given these provisions, there is no justification in our judgement for establishing a statutory guideline that is likely to exceed significantly the rate of inflation for the remainder of this decade. The experience of the Residential Tenancy Commission suggests that operating costs, on average, are equal to about 60 per cent of the annual expenditures associated with running a building.

Therefore, we recommend that the statutory guideline be adjusted to reflect two per cent plus 60 per cent of the building operating cost index rather than the current two per cent plus two thirds of that index. Such an adjustment would result in increases over and above inflation when costs are below five per cent and increases below inflation when costs exceed five per cent.

Subsection 68(3), as worded, raises the prospect of unusually large rent increases, which could have an adverse effect on many lower-income tenants. We recommend that this provision be amended such that increases above the statutory guideline to narrow the gap between actual and maximum permitted rents be limited to five per cent in any one year.

With regard to section 88, relating to chronically depressed rents, Bill 51 contains a provision that allows for additional rent increases of up to two per cent per year in specialized situations where rents are abnormally low relative to the rents in equivalent units and the rates of return are low as well. If landlords of buildings with low rents were suffering, we feel they would likely have made application for rent increases at some time during the past 11 years.

We therefore recommend that this section be deleted, especially as there are no provisions for compensating tenants who may be adversely affected. Should it be decided to retain this section, we recommend that there be a time limit of two years from the date of proclamation of this section in making application for relief of chronically depressed rents.

Mr. Zarnke: The regulation of rents proposed in Bill 51 is supportive of other housing initiatives to which the government of Ontario recently committed itself in its assured housing program. While rent review will apply to all privately initiated rental housing units, it should not be suggested that this comprises an impediment to the development of new rental housing. The rents in new housing developments will be permitted to reach levels that will allow developers to earn a competitive rate of return on their investments.

The government of Ontario has recognized that private developers will never be able to meet the needs of many Ontario families and individuals. Accordingly, the assured housing program commits the provincial government, in conjunction with Canada Mortgage and Housing Corp., to providing for three years 6,700 units per year of nonprofit housing. About 40 per cent of the occupants of these units will be assisted on a rent-gear-to-income basis. While this level is far and away above any commitment of a previous government, we suggest to the resources development committee that this commitment is still not sufficient to meet the needs for assisted housing of Ontario's low-income tenants.

Meeting the need for assisted housing in Metro Toronto alone would necessitate a 15-year program with a target of 4,500 units of rent-gear-to-income housing annually. It is anticipated that at least 50 per cent of these units could be provided through programs aimed at retaining the existing stock of affordable rental housing. Mounting a similar program to address the serious housing problems facing families and individuals all across Ontario would require an annual target of at least 12,000 rent-gear-to-income units province-wide. This would represent a fourfold increase in existing rent-gear-to-income commitments.

13:40

We recommend that the provincial government increase significantly its unit allocation to nonprofit housing development and that this commitment be established in such a way that nonprofit housing producers may gear up to meet the higher production level.

Finally, homelessness--lack of access to permanent shelter--has become one of the most critical problems in Metropolitan Toronto. While this problem

affects families as well as individuals, it currently affects single persons more than any other group. Many of the homeless require other community supports in addition to their need for housing.

We recommend a co-ordinated approach in increasing funding of second-stage and supportive housing initiatives to solve the problem of homelessness in our communities. We acknowledge that this Legislature has introduced amendments to the Human Rights Code which would make it unlawful for landlords to discriminate against families with children. We are hopeful that this change, once enacted, will make it easier for moderate- and low-income families with children to find suitable rental housing.

Mr. Chairman: Thank you. Were either of you members of the Rent Review Advisory Committee?

Mr. Thornley: No.

Mr. Reville: I would like to congratulate Mr. Zarnke and Mr. Thornley for a thoughtful brief based on a tradition of a lot of interest and useful suggestions about housing from the Social Planning Council of Metropolitan Toronto. This is good work.

Just to follow up on the chairman's point, Mr. Patterson was a member of the Rent Review Advisory Committee. Can you tell me what his association is with the Social Planning Council of Metropolitan Toronto?

Mr. Thornley: Mr. Patterson is employed as a senior program director with the council.

Mr. Reville: When your directors had a look at Bill 51, you had an expert on board, so to speak.

Mr. Thornley: In a manner of speaking, yes.

Mr. Reville: Fair enough. We are just in the second day of public hearings, and yesterday I think we heard from nine landlord groups or individual landlords and two tenants' groups. Your submission is the first one we have heard that is generally in support of Bill 51; it does not believe rent control should be phased out. Do you have any comment on that?

Mr. Thornley: I am sorry. We are the first ones who do not believe rent control ought to be phased out?

Mr. Reville: What I am saying is that I view your brief, with some clear exceptions, as being mainly in support of Bill 51, or the thrust of Bill 51 in any event.

Mr. Thornley: Yes.

Mr. Reville: The landlords we heard from yesterday clearly feel rent control should disappear. You have indicated that you do not think it should disappear. I wonder if you would elaborate on that.

Mr. Thornley: I think the concern the bill addresses concretely on a number of occasions is the concern that landlords have expressed in the past, that current rent review legislation does not take into account the question of landlords getting a reasonable rate of return on moneys invested in rental housing projects.



There are explicit provisions in this piece of legislation dealing with economic and financial loss and with increases over and above the guideline to ensure a reasonable rate of return on all projects built since 1975. In our judgement, the safeguards are in the legislation to ensure landlords a reasonable rate of return if they are interested in maintaining an involvement in the rental housing market.

I guess in our judgement those concerns have been addressed, and therefore we do not see a problem with this legislation from the standpoint of rental housing not being an economically viable proposition.

Mr. Reville: The Fair Rental Policy Organization--which is headed by Mr. Grenier, who is also co-chairman of the Rent Review Advisory Committee--in its recent newsletter is delighted that editorial opinion in Ontario has changed since its campaign has begun and that 95 per cent of newspapers now are opposed to rent control.

I will be frank with you. My concern about this bill is that one of the assumptions the ministry has made and the minister has spoken about often is that Bill 51 will somehow get landlords building again. I do not believe that for a second; the landlords yesterday said in the main that they did not believe it either, and I do not think you believe it, to judge from your brief. I am concerned that some time from now we will have landlords coming back and saying: "See? There is no building. Now get rid of rent review." Do you have any views on that?

Mr. Thornley: My response is that it is not really the role of rent review legislation per se to make the building of new rental housing projects viable or not. Rent review, by and large, is primarily focused on housing that is already built.

Mr. Reville: Would you repeat that again just so the committee gets it?

Mr. Thornley: As I read this legislation and look at the realities of building new rental housing in 1986 in most urban areas in Ontario, with or without this piece of legislation there are major problems in the economic viability of building new rental projects, because the kinds of rents that have to be charged to make a go of it are at the absolute top end of the rental market. The reality is that 75 per cent of renting households have incomes of \$28,000 or less, and they cannot afford to pay \$750, \$850 or \$1,000 a month in rent.

With or without this piece of legislation, landlords have a case when they say there may not be a market for what they can afford to build in this day and age. That, however, I do not think takes away from whether this is a reasonable bill in respect of the housing that has already been built. What this legislation attempts to do is to develop a working compromise of competing interests that tries to ensure that those tenants housed in existing rental buildings are not paying more rent than they reasonably have to in order to ensure that landlords can run their projects and make a modest rate of return on them.

Mr. Reville: Thank you, Mr. Thornley. I assume that this is why you have included at the end of your brief a call to the government to quadruple its effort in assisted housing, that being the only way you see of getting affordable housing.

Mr. Thornley: That is right.

Mr. Reville: I have a couple of specific questions. For your information, on two of your points the government has indicated amendments are coming which seem to satisfy your concerns. This is one of the problems that some of the members of the committee have already expressed. We do not know what the government amendments are, but in terms of subsection 15(3), it does indicate there are two other levels of disincentive. We have not seen the amendments yet, but I think one of the disincentives is what you suggest. Gardner Church is nodding. It looks as if your concern under subsection 15(3) will be dealt with, and when we see the amendment we will know too.

In section 53, I think it is going to take care of the rooming, lodging and boarding house as well, but again we have not seen the amendment.

Concerning subsection 55(1), the minister has not been good about this six-unit issue in the past. I do not know whether he is going to do better next time. I hope so. I am thinking of Bill 11. He forgot his number there.

I am interested in your suggestion about the guideline. For the benefit of people who are still struggling with the guideline, you say the guideline should be 0.6 of the building operating cost index plus two?

13:50

Mr. Thornley: I would put it this way: That is the highest guideline we could reasonably live with.

Mr. Reville: If two thirds of BOCI plus two equals 5.2 per cent-- which may be right; we still do not know--your guideline would work out to 4.9 per cent. That reflects one of the lines of questioning I pursued with the landlords who were here. I think I was talking to Mr. Griesdorf about that. Based on the notion that the relationship of operating costs to revenue is between 50 per cent and 70 per cent, you have chosen a midway point rather than a high point. Is that correct?

Mr. Thornley: That was our intent.

Mr. Reville: That would have an impact of a rent increase in 1987 of about 0.3 per cent less than what is contemplated.

Mr. Thornley: When you look at it at one level, it looks like nickel-and-diming it, but if you look at the implications extended over five or 10 years, that difference over 10 years is between 3.5 per cent and four per cent rent difference.

Mr. Reville: The difference would be even greater under your formula if inflation went up.

Mr. Thornley: Yes.

Mr. Reville: I want to ask you about the other end of the formula for a second, the plus two, because you have not spoken about that. Under my relentless questioning, the plus two was described as one per cent for a rainy day and encouragement incentive and one per cent for minor capital improvements over which it was too much trouble to go to rent review. I suppose that is a new doorknob or something.

Over time that two per cent, which would apply even if inflation were zero, can compound to quite a lot of money, and there is no indication that those moneys would ever be spent; maybe they would and maybe they would not. Do you have any concerns about the plus two end outside of the ones I tried to plant in your mind at this moment?

Mr. Thornley: We interpreted the intention of the plus two to deal with that portion of total expenditures that does not relate to the upper-end cost increases. If the guideline looks like it breaks even at six per cent and the building operating cost component is two thirds, then one third of six per cent is also two per cent. That is where we saw that coming from, rightly or wrongly. We had a discussion as to whether that aspect of it ought to be rolled back to 1.5 per cent, but on balance we decided to leave it at two.

Mr. Reville: I am sorry to hear that. Does anybody hear a train coming? I just lost my train here.

Mr. Chairman: You have to leave it alone.

Mr. Reville: It will come to me in a second.

You indicate that the chronically depressed rent section gives you trouble.

Mr. Thornley: Our argument is largely that given the fact there are already a number of provisions to deal with people who are having problems-- they can pass through problems related to renewing mortgages at higher rates-- and there are provisions to make up the difference between maximum permitted and actual rents, and given the fact that provision relates to projects that have been within rent review for more than 10 years now, we do not see the need for it. We are not convinced there is a need for that provision.

Mr. Reville: My train just came back into the station.

To your knowledge, did you or Mr. Patterson suggest the 0.6 BOCI plus two formula to either the Rent Review Advisory Committee or the Ministry of Housing?

Mr. Thornley: Not as far as I know.

Mr. Reville: Is this the first time you have heard this one, Minister?

Hon. Mr. Curling: Yes.

Mr. Reville: It is a good one, though, is it not?

I have already suggested the government delete the chronically depressed rent section but I did not get too much agreement on that. I am concerned that people who live there who may have chronically depressed incomes and for whom a guideline increase, plus two per cent increase, plus possibly other increases that would be allowed for under this bill in cases of extraordinary operating costs might not be able to afford their rent.

It was suggested to me yesterday by somebody who was here in respect of LD buildings, limited-dividend buildings, that the wrong way to go about dealing with this problem would be to subsidize the tenants, because that is landlord welfare. Do you have any solution to the problem of tenants with



chronically depressed incomes in buildings that have chronically depressed rents?

Mr. Thornley: My only solution to that is more of a long-range strategy. Given the demographics of new renter household formations in Metropolitan Toronto and across Ontario, we have estimated that at least 50 per cent of the affordability problem out there in the community will have to be met through housing which is already built. There just is not the need to build new rental housing on anything like the scale of the numbers of households that have an affordability problem.

That being the case, there is a need to look fairly hard at how you increase the affordability of the present rental stock. Clearly, Bill 51 is not the answer to that. Part of the solution I advocate--and here I am speaking on my own behalf rather than in terms of council policy--is that you have to look at direct acquisition of housing renting at below average rents as part of the strategy. Projects with chronically depressed rents that cannot make a go of it would be prime candidates for a direct acquisition program.

Mr. Reville: That was a suggestion some of the landlords did not object to too strongly, although it would be unfair to say that they embraced it. You say 50 per cent of the affordability problem will have to be met by the private market?

Mr. Thornley: It will have to be met through rental housing that is already built, the bulk of which obviously is in the private market.

Mr. Reville: You would be familiar with the statistics which say that about 80 per cent of the people currently on social assistance are in the private rental market.

Mr. Thornley: It is at least 75 per cent and it may be 80 per cent. You may be right there.

Mr. Reville: Perhaps 75 per cent is right. I sometimes make these numbers up. Is it your view that they already have an affordability problem?

Mr. Thornley: Certainly, the overwhelming majority of them do. A report that the Metro community services department put out in April or May 1986 indicated that those renters on social assistance programs in Ontario who were renting on the private market were on average paying around 65 per cent of their incomes in rent. This is a fairly major affordability problem.

Mr. Reville: This bill would allow increases of 5.2 per cent on up into infinity, depending on the drastic economic loss, etc. How is that gap going to be made up for people who currently have an affordability problem? If they now have it, how will they manage with increases of five per cent, seven per cent, 10 per cent, 15 per cent, 20 per cent and more?

14:00

Mr. Thornley: They will not be able to manage any better under Bill 51, by and large, than they are managing now. It is a difficult thing, but I do not think Bill 51 can guarantee the affordability of rental housing. What we obviously have to look at is the extent to which Bill 51 may make the situation worse than it already is.

It was difficult for us to come to a determination there because we

looked at what the implications are of extending the current four per cent guideline versus the kinds of increases that are likely to be coming out as a consequence of this legislation.

If you assume an average inflation rate of five per cent over the next five years, for a two-bedroom apartment in Metro Toronto currently renting for \$500 a month, after five years people will be spending \$40 a month more under the present program than they would be spending merely by extending the four per cent guideline. For a family that is already spending 30 to 40 per cent of its income in rent, that represents a major hardship. There are no two ways about that.

Mr. Reville: I have just one more question and it relates to the crossover aspect of the formula. You seem to think it is useful that when inflation is low, the guideline will generate increases higher than inflation, but when inflation is high--that is, above six per cent--it will generate a rent increase that is lower than inflation.

That puzzles me, because it would seem that in times of low inflation people's income would go up by less than it would in times of high inflation, so that an increase higher than inflation actually exacerbates the affordability problem while inflation stays low.

Mr. Thornley: Our decision to support that guideline was heavily influenced by the relationship during the past 10 to 15 years between increases in welfare payments and the rate of inflation. We found it was during periods of highest inflation that welfare payments fell--

Mr. Reville: We have a new government now, so that will never happen again.

Mr. Thornley: It may never happen again, but we felt it was especially important to cushion very low income people during periods of high inflation. They might be able to cope with a one- or two-point loss when inflation is relatively minor if the tradeoff for that were a--

Mr. Reville: You are playing a gap here.

Mr. Thornley: That is right.

Mr. Reville: Your reasoning was that if inflation got to be eight per cent or something, then their income maintenance would lag further behind. I am sure the Minister of Community and Social Services (Mr. Sweeney) would not agree with you.

Mr. Thornley: I am not saying that will happen again, but we were influenced by what had happened in the past.

Mr. Reville: Thank you very much.

Ms. E. J. Smith: I want to ask you a couple of things. First, I want to address the comment you made that Mr. Reville had you repeat: namely, that this bill really addresses only existing buildings rather than ongoing building problems and therefore, etc.

It seems to me, from the background reading I have done on the problem, from this bill and from editorials I have read, that the reverse is true. What I read is that one of the major problems we have is the lack of private money

coming in and a lack of the confidence that would encourage them to build. One of the major issues that the government is trying to address in this bill is the restoration of confidence and an understanding of the rules for builders so that they can use whatever initiative they may have in their own field to get back into the market in one way or another.

Both Mr. Grenier and the minister have recognized we are not sure how many are going to come back and how quickly, but this is certainly one of the objectives, as I understand it. The bill for government is horrendous if there is no private money coming back and we have to take over the whole of the building market.

Granted, low-income people and high percentages of grants going to rent become a social problem that has to be dealt with in another way. Do you consider this bill should not address both problems, recognizing that other bills and other housing thrusts must fundamentally address the problem of those who cannot afford the rent? This bill is not intended to address only those in social need; it is intended to bring money back into the market for building. Do you not see this as at least a worthwhile aim in the bill?

Mr. Thornley: It is a worthwhile aim in the bill. I did not mean to imply that the bill is dealing only with projects that have already been built. What I was really getting at is that the bill in and of itself cannot do much about the economics of new building construction.

Ms. E. J. Smith: I think we all recognize that for many people this bill will not be the answer. It may help define what portion of the problem can be answered with private building and what portion will need other programs. For everybody's sake, I hope it does that more clearly.

We are going to have another presentation today saying the same thing. I have a great deal of difficulty on a personal level--and when I say "personal," I mean from the point of view of the renter--understanding what you think it will accomplish. Let us assume you recognize this is a reasonable rent and this formula is based on some degree of assurance of fair return for landlords, having said there is such a thing as a reasonable rent. If for any given reason, particularly in smaller units where the reasons may be social or individual, a landlord does not charge as much as he is permitted, what is accomplished by informing a new tenant that someone before him got a bargain?

The only thing it accomplishes is to make that tenant, who may have a great deal of trouble understanding the thing and who has not had the benefit of going through this whole operation--all he knows is that he got an official document from the government that says, "So-and-so ahead of you paid \$300 rent and you are being charged \$400." The new tenant may be quite happy to find a place for \$400 until he gets that piece of paper. The place is worth \$400, but you are insisting the tenant be informed of some other advantage that for undefined reasons was given to the previous tenant. Why? I do not understand that.

Mr. Thornley: To come up with a concrete example, there will be buildings--I do not know how many--where the actual rent people are being charged is less than the maximum permitted rent.

Ms. E. J. Smith: Because the landlord chooses. Because this formula which is deemed to be fair gave him something he did not take advantage of.

Mr. Thornley: Because of the historical record. Yes, right.



If you have a situation where a landlord is not adequately maintaining a building and he is not entitled to certain kinds of increases, when a new tenant comes in, how does he know whether he has had a rent increase if there is no record of what the actual rent was, unless he knows what the last tenant was charged?

Ms. E. J. Smith: The adequate maintenance has surely been looked after in other portions. Let us assume the bill goes through and is acted upon the way it is supposed to be, that we have adequate maintenance under the standards board and that is not a problem. Let us assume in this building there is no problem. You are just a nice landlord who happened to have an old woman in an apartment and you did not increase her rent because you liked her or knew her or for any number of reasons. In every way, including maintenance, you have fulfilled the requirements of the bill.

Mr. Thornley: If, as we have recommended, there is a cap on the extent to which you can narrow the gap between actual and permitted rent, a new tenant coming in would have to know what the last actual rent was in order to ensure he has been dealt with fairly.

14:10

Ms. E. J. Smith: You would tie in that recommendation with your other one. If you did not have the other, you would not require it. I could see it if you were tying it in--

Mr. Thornley: I have not thought of all the other--

Ms. E. J. Smith: --if you were saying you can go up only five per cent regardless of what you allowed renters, and then you have to be told. I agree with that. I do not necessarily agree with that recommendation because it will assure that no landlord will ever give a tenant a bargain; they will make sure they go to the maximum. That is a separate thing to look at. Given that, if that were changed, I could see your recommendation. I can accept it on the basis that it is tied to the other.

Mr. Chairman: We had better move along. Mr. Davis.

Mr. Davis: Thank you for your frankness in your discussion of your paper. You stated, and I want to clarify it, that Bill 51 has the possibility of making affordable housing and the people who are seeking affordable housing a worse situation than currently exists.

Mr. Thornley: That is possible.

Mr. Davis: You also stated that the rent review as outlined in Bill 51 in the main really deals with rental housing that now exists on the market.

Mr. Thornley: That is its primary focus.

Mr. Davis: In your opinion, this bill will not encourage new development in rental units, even in the high end.

Mr. Thornley: I would turn that around. I do not see anything in the bill that discourages new rental construction.

Mr. Davis: One of the things we have been told by the minister is that this bill will indeed create new housing because of the trickle-down

theory. New housing will be built and the trickle-down theory will work where people will move from middle-income types of apartments to better accommodation and therefore open up a whole process whereby there will be more availability. Do you believe that?

Mr. Thornley: I would respond to that in part by saying that I think if there are adequate maintenance guarantees built into the bill, there may be a positive tradeoff possible wherein although some low-income and moderate-income tenants are paying higher rents than they might have otherwise, they are getting an assurance that they will be living in physically suitable and adequate housing, which certainly is not the case now.

Mr. Davis: You do not necessarily see the movement that has been suggested. They might just stay where they are and have a better maintained apartment.

Mr. Thornley: I think that is more likely.

Mr. Chairman: May I thank you for appearing before the committee. Just for my clarification, you did say that 75 per cent of all apartment incomes are less than \$28,000. Is that what you said? Does that include any combined incomes in the apartment as well?

Mr. Cordiano: Seventy five per cent of all tenant households.

Mr. Chairman: Tenant households, incomes of less than \$28,000.

Mr. Thornley: I would have to check what year. That may be 1985 as opposed to 1986. I would have to check that.

Mr. Chairman: Thank you very much for appearing before the committee. We appreciate it.

Mr. Chairman: The next presentation is exhibit 56, which is the Board of Trade of Metropolitan Toronto. Mr. Milne. We have several people representing the board of trade. I wonder whether they could introduce themselves.

#### BOARD OF TRADE OF METROPOLITAN TORONTO

Mr. Milne: My name is Donald Milne. Wallace Little accompanies me on my immediate right. We are here on behalf of the Board of Trade of Metropolitan Toronto. We are both volunteer members of its planning committee. Also joining us are two staff with the board of trade: Robert Christie, manager of the board's urban affairs department on my far right, and Diane Voralek, a policy analyst in the same department, to his left.

We appreciate the efforts of your committee and committee staff in facilitating our appearance. We requested only 15 minutes and we doubt that we will take the allotted time, which should let you catch up.

We are not going to go through the bill clause by clause. You have before you the board's August 19 written submission. We have additional copies here if anyone wants one. I will not read it but will merely highlight four major points.

Before doing that, let me briefly outline who the board of trade is and the process that brings us here today. The Board of Trade of Metropolitan

Toronto was incorporated by a special federal act in 1845. It is the largest board of trade or chamber of commerce in North America. It legitimately claims to be the voice of the Metropolitan Toronto business community. Its membership is in excess of 15,000, representing firms of all sizes. These firms transact business locally, nationally and internationally from a Metropolitan Toronto base.

Among the board's incorporated objectives is fostering the economic and social welfare of the municipality of Metropolitan Toronto in particular and of the province of Ontario and the Dominion of Canada in general. The board provides a forum for the business community to develop opinions and programs that contribute to the social, economic and physical quality of life in our community. The board promotes a society and an economy based on private enterprise and concern for the individual. In other words, it supports fair enterprise.

The genesis of our submission was in the board's planning committee, which is a 15-member volunteer, specialist committee, widely representative of business people concerned with land use matters. It is assisted by the full-time staff of the board's urban affairs department, two of whose members I have already introduced. Interestingly, the initial draft of our submission was from the planning committee's subcommittee on affordable housing. Affordable housing is what we are all here about today, as we approach the United Nations International Year of Shelter for the Homeless. Our submission represents the consensus view of the board's planning committee and has been approved by the board's executive committee.

Our major point, consistently maintained over the years, is that rent controls worsen rather than assist the supply of affordable housing. They exclude the private sector from the supply side of the equation. We compliment the government on establishing an advisory committee of tenants and owners and suppliers of rental housing. We see considerable improvement in the draft bill over the existing regime. However, that said as vigorously as we can, we respectfully submit that rent controls, even in the form found in the Residential Rent Regulation Act, ultimately will require government to be the sole producer of rental accommodation. Government is rapidly approaching that role, and our written submission sets out some of the statistics.

Second, we wish to argue equally vigorously that extension of controls to post-1975 buildings is seen by many of our members to be a total breach of faith by government. Such a step has serious implications for the preservation of public and investor trust and the political process. Those who bet against the good faith of government won; those who took government at face value lost. Fair enterprise is not encouraged by such policy reversal.

The board policy is to favour shelter allowances as being an accountable and targetable expenditure of government. Our figures show that such an advertent policy would not be more expensive than the obvious and hidden costs of rent control. Shelter allowances will, of course, need to be combined with a social housing program for specific groups of hard-to-house individuals.

In the board's view, government has a tiger by the tail in rent controls; further delay in extricating itself from general rent controls will only make eventual transition more traumatic. We do not see how a provincial government can be seriously contemplating becoming the main supplier of rental accommodation. The previous speakers gave some idea of the ambit of construction that would be required.



Furthermore, our belief is that the old 80-20 rule does not apply to the supply side of rental accommodation. Twenty per cent of builders do not provide 80 per cent of the rental accommodation. Much was provided by small builders and investors. It is increasingly apparent that it is to the small entrepreneur we must look for employment growth.

14:20

The proposed regime is in our respectful submission so complex that when added to the complex development controls in existence in most municipalities, only large companies could contemplate a rental project, and as we know, they have mainly shifted to other forms of development.

We urge the government to initiate a gradual program of decontrol on a pilot basis. Selected outlying areas could be identified where decontrol could be phased in. These outlying areas did not have Toronto's problem; they got Toronto's solution and now they have Toronto's problem. It seems almost obscene that places outside Toronto now have nonexistent vacancy rates like Toronto where before there was a healthy vacancy rate.

It is not in our written submission but it is a personal view that key money should be subject to 100 per cent income tax. If housing is to be socialized, so should the benefits.

In conclusion, the board urges courage, education of the public and leadership by government in gradually returning the bulk of the responsibility for providing rental accommodation to the private sector. Coupled with a program of shelter allowances and a targeted social housing program, a partnership between government and the private sector could be re-established. Thank you for your attention.

Mr. Chairman: Thank you, Mr. Milne. I have a short question before we turn it over to the members. Did I understand correctly that you were saying the controls should be removed in areas outside Toronto with relatively high vacancy rates? Was that the point you were making?

Mr. Milne: I think I made two points. Many outlying areas did have acceptable vacancy rates prior to the introduction of rent controls. They now have the same problem as Metropolitan Toronto: very low vacancy rates.

In our submission, we see two possibilities. If areas of high vacancy rates could be identified, they would be obvious places for decontrol. Moreover, the point we made in our written submission is that targeted areas could be subject to a pilot project of decontrol where it is announced in advance, where government incentives to help the supply side are introduced and over a three- to five-year period decontrol is brought in. We think a logical place for that would be in areas of high unemployment where potentially construction would act as an incentive to the local economy.

Mr. Chairman: You are not implying that would do anything to resolve the problem in a place such as Toronto.

Mr. Milne: We think decontrol should be experimented with. Everything we hear from our members, as I said, is that it is a tiger by the tail and we just postpone the inevitable if we do not move to decontrol in a pilot process.

Mr. Chairman: Are there any questions from members of the committee?

If not, thank you. You have made your point succinctly, and we appreciate your appearance before the committee.

Mr. Milne: Thank you for your courtesy, Mr. Chairman.

Mr. Chairman: Is Jennifer Heffern here? If Jennifer Heffern is not here, the next person due to present at three o'clock has cancelled out. The next person we were to hear from was Mrs. Frank Bruckler. Is Mrs. Bruckler here? The committee should take a recess, because if Jennifer Heffern is absent and Mrs. Bruckler is not scheduled to appear until 3:30 p.m., we cannot proceed at this point.

Mr. Taylor: Brian Lawrence?

Mr. Chairman: Brian Lawrence cancelled out.

Mr. Taylor: Joseph Gamero?

Mr. Chairman: Brian Lawrence has cancelled out and so has Joseph Gamero. Jennifer Heffern is not here.

We will adjourn until three o'clock. Perhaps then someone will be here.

The committee recessed at 2:25 p.m.

15:07

Mr. Chairman: The committee will come to order. We have with us Mrs. Bruckler, who is going to make an oral presentation. Mrs. Bruckler, are you ready to roll, so to speak?

Mr. Reville: Is Ms. Heffern not here?

Mr. Chairman: I believe not. We will have to classify her as a no-show.

Mrs. Bruckler, thank you for appearing before the committee this afternoon. I encourage you to go ahead and say whatever you want to say.

Mr. Erhardt: Are you ready for my aunt? May I introduce her? Her name is Mrs. Bruckler. She is a widow and a property owner. She has a low-rise property in the north part of the city.

Mr. Chairman: Who are you?

Mr. Erhardt: I am her nephew.

Mr. Chairman: And your name?

Mr. Erhardt: Peter Erhardt.

Mr. Chairman: Mrs. Bruckler, would you like to proceed? Sit down, be comfortable and informal.

MRS. FRANK BRUCKLER

Mrs. Bruckler: My husband and I came to this country in 1948 with two small children, and we worked six days a week to save money. We never had

any holidays or anything like that. We bought one sixplex, and a few years later the board of education took away our house. We had some money and my husband decided that instead of buying a house, it would be better if we bought a place where we could live rent free when we were older.

The rent we are getting now is very low. In 1982 we went to the rent board. At that time we were represented by SPAR and it cost us \$800. The board allowed us \$21 more a month. When you have to pay \$800 and you get only \$21 more a month, it does not pay to go to the rental board. For a three-bedroom apartment with two bathrooms, which are called luxury apartments--I do not know, but they are big rooms--we still get only \$500 per month in rent.

15:10

Mr. Chairman: Is this in Toronto?

Mrs. Bruckler: North York. Yesterday I found this in my mail box. Somebody threw it in: Villa Fraserwood, the next street is Meadowbrook, and they are all sixplexes. These people want \$750 for a two-bedroom apartment.

We have one tenant on Lawrence with two sisters. One of them was getting married, so she phoned to ask me whether there was something available. I said there was one with two older tenants. Mr. Newman had already passed away and his wife was in the hospital. I said, "If something happens to Mrs. Newman, then you can have the apartment."

They could not wait, so she went to look around. She said it was \$700 for a two-bedroom apartment in our neighbourhood. Then Mrs. Newman passed away, so they moved in for \$520 for a three-bedroom apartment. That is how much we get.

Why can tenants take all-luxury trips? We never went anywhere, we just saved and saved. Now, because we break even, we have no right to ask for more money.

Another thing is, why can tenants move out whenever they want; they have to give only two-months' notice. When you have bad tenants in your building who are harassing and threatening you, you have no right to get them out. How is that possible? What rights do the landlords have?

I understand that under section 88 there is supposed to be an extra two per cent increase. Is that correct?

Mr. Chairman: Section 88 deals with the chronically depressed aspect of rentals. I am not sure you are on the right track, but go ahead.

Mrs. Bruckler: When you pay \$9,000 in taxes on one building, how much is left? Heating is \$3,000, plus hydro and water. How much money is left at the end of the year? We need badly to pave the back and the driveway but that costs \$10,000. There is not \$10,000 to do those things and keep everything in order. There should be painting done but there is no money with the low rent we get.

I know it was introduced in 1975 or 1976 by the government and we are still stuck with this whole thing. I understand it is going down instead of up because everybody thinks the landlords are making so much money. Maybe the big ones do, but the small people, the working people, do not. They are not making



any money. We are glad when we break even. We can do only so much, because there is nothing to spend any more.

I guess that is all I have to say.

Mr. Chairman: Thank you, Mrs. Bruckler. How many units do you have?

Mrs. Bruckler: We have 12, two buildings with six, but they are not all three-bedroom apartments. A three-bedroom is \$500, a two-bedroom is only \$400, and a one-bedroom is \$240. How far can you get with that?

Mr. Chairman: Are there any questions from members of the committee?

Mr. Reville: I have just one question. This is out of curiosity. When the board of education took your house, did they they expropriate it?

Mrs. Bruckler: Yes, we lived at Oakwood and St. Clair. That was in 1966 or 1968.

Mr. Reville: That is when you decided to invest in the sixplex.

Mrs. Bruckler: Yes.

Mr. Reville: From the money that--

Mrs. Bruckler: Because they paid cash. That is when we bought this building instead of a house.

Mr. Reville: Did you buy two sixplexes then or just one?

Mrs. Bruckler: Just one. We bought the other one earlier.

Mr. Reville: You have told us that the rents do not allow you to make any improvements and you are breaking even.

Mrs. Bruckler: I did not understand. We break even; that is all we do.

Mr. Reville: Do the rents cover your expenses?

Mrs. Bruckler: Expenses, and that is all. But in the neighbourhood, the other people--

Mr. Reville: They are much higher.

Mrs. Bruckler: They are much higher.

Mr. Reville: What about the money you are going to earn on your investment in the house when you sell it? How should that be taken into consideration? When you bought the house, it was not worth as much as it is now, I assume.

Mrs. Bruckler: Yes.

Mr. Reville: Do you have any idea what its value would be today?

Mrs. Bruckler: No.

Mr. Epp: Is that a house or the apartment building?

Mr. Reville: No. She owns two sixplexes, Mr. Epp.

Mr. Epp: You mentioned the house and she was referring to the apartment. I wondered whether it was confusing her.

Mr. Reville: I wondered whether Mrs. Bruckler had lived on Oak Street, which is in my area, where the board of education expropriated 51 houses.

Mrs. Bruckler: No, we lived at Oakwood and St. Clair.

Mr. Erhardt: Next to Oakwood Collegiate.

Mr. Reville: Did you want to give us an estimate of what your property is worth today?

Mrs. Bruckler: Maybe \$300,000.

Mr. Taylor: Who would buy it?

Mr. Erhardt: Precisely.

Mrs. Bruckler: That is it. Who would like to invest money if they do not get anything out of it? I told you we should really have our driveway paved and the halls should be painted, but there is no money. You cannot pay \$1,000 for painting a hall or \$10,000 for a driveway. That is how much it costs. Where do I get the money?

Mr. Davis: In effect, you are saying that as a small landlord you provide accommodation for these people at a rent that you believe should be higher, compared to the other units in the same area?

Mrs. Bruckler: Yes.

Mr. Davis: That would be correct? Maybe the assistant deputy minister can help me. Does not Bill 51 take that into consideration in the sense that hers may be an economically deprived area wherein she could bring her rents up to those in her area that are comparable in size of units?

Mr. Church: That is not currently contemplated in the bill. Under the equalization provisions as they stand now, the units have to be in the same building. They would apply to differences within the same building.

Where there might be some relief is in the section that the witness has mentioned. Under section 88, it is conceivable that a chronically depressed relief would be appropriate if she is more than 20 per cent below equivalent units in the neighbourhood.

Mr. Davis: That is what I was after. There may be a possibility in that section. I hear you saying--correct me if I am wrong--that the income you derive from renting only meets your expenses at the end of the year.

Mrs. Bruckler: That is right.

Mr. Davis: So there is not a great deal of profit.

Mrs. Bruckler: No.

Mr. Davis: There is nothing wrong with any Canadian investing in this country and expecting to get some kind of dividend out of his investment. With all due respect to my colleague, I do not think it matters what your buildings are worth. That is something for you, because you took a risk. At some point, people have to understand that is part of the Canadian enterprise; that people risk at point A understanding their investments are going to grow.

I understand the tenants' concerns--at least I think I am beginning to understand that they have concerns as well--but I do not believe the tenants want to jeopardize individuals who want to make investments in property or real estate. I assume that anybody who buys a house understands it is not only accommodation for them, but it is also a capital investment and down the road they are going to make money on it. I thank you for coming and explaining to the committee some of the concerns of the small landlord.

15:20

Mrs. Bruckler: Another thing. Do not ask me how long our tenants are there--some of them for 20 years. Nobody is moving. Do you think they are moving out and paying more rent when they can have this for a low rent? No one is moving. One of the tenants we had lived there for eight years. Now they have a baby. They have a two-bedroom apartment. He came last night and told me they are moving out at the end of October. He said, "My sister is moving in." That is what it is. They pay \$450 for a two-bedroom apartment. Parking is free.

Interjection: Start charging.

Mrs. Bruckler: Yes. How can you charge?

Mr. Chairman: Thank you, Mr. Davis.

Mr. Epp: Mrs. Bruckler, I think you indicated earlier that you had been to rent review on one occasion.

Mrs. Bruckler: Yes, in 1982.

Mr. Epp: If the information you have provided to the committee is accurate, you might have an opportunity to go back there and to justify some of those expenses, including the painting and the pavement and so forth.

Mrs. Bruckler: But first you need the money to have it done. If you go to the rent board--

Mr. Epp: Just a moment. I do not think that is quite correct. I think if you could justify, then you could build that into your increases and then you could have it done. Obviously, you need the money but you could get the permission first. You do not have to have it done first and then go to the rent review to justify it and not be able to get it. Is that not correct, Mr. Church?

Mr. Church: Under the present legislation, that might prove difficult, but under Bill 51 it is anticipated that you could have a predetermination for capital expenditures.

Mr. Epp: Based on the incidence rate, Mr. Church, is it not correct that if she could justify her expenditure of the \$10,000 in pavement and so



forth, there should not be any difficulty in including that in the increases?

Mr. Church: There might be some difficulty if there were tenant objections about performance and other issues but under the present jurisdiction, as I understand it, it could be amortized into the rent now. However, in the event that her credit rating or credit position was not such that she could get the funds, it might be several years before that produced sufficient revenue to allow it to take place. There is still a performance problem associated with that, but yes, it could be built into the base. Under the new law, it most certainly could. Under Bill 51, it is anticipated that predetermination would allow that.

Mr. Chairman: You are told ahead of time how much you can expect.

Mr. Church: Yes.

Mr. Taylor: (Inaudible).

Mr. Epp: If my name were Jim Taylor I might, but I do not have that. It is obviously important that the incentive be there for you to improve your building. As Mr. Church indicated, that will be incorporated in the new legislation. The incentives will be greater in the new legislation for you to improve those buildings.

Mrs. Bruckler: But this is going to be phased in, those things such as a new roof. A new roof will cost me \$20,000. That is going to be phased in for 10 years, just deduct so much every year.

Mr. Epp: But the incentive will be there for you to put the new roof on. Obviously, it is a necessity. You are not going to have much choice about whether you have to put a new roof on or not. At least for the tenants who live upstairs.

Mrs. Bruckler: For everybody.

Mr. Epp: Yes.

Mrs. Bruckler: That is what I am saying. There are things that cost a lot of money and if you just break even, there is nothing left for doing those things. There are a lot of things. I just thought I would show you how much other people get and how much we get.

Mr. Epp: The problems you have encountered are encountered by a lot of other landlords, particularly the ones you have singled out, such as the ones who have sixplexes and so forth as opposed to high-rise apartments. We heard those same instances back in 1978-79 when we were dealing with Bill 163. I am not sure you were before the committee at that time.

Mrs. Bruckler: We were here, yes.

Mr. Epp: We are hearing them now.

Mrs. Bruckler: We were here that time too.

Mr. Epp: You are an old hand at this then.

Mrs. Bruckler: When it came out, we started and we are interested in it because we know how hard it is. As I said, all the people are working.

Mr. Epp: We appreciate your coming before the committee.

Mr. Chairman: Does Mr. Cordiano have a supplementary?

Mr. Cordiano: If I may, I just want a short supplementary. When you say you are breaking even, are you including in that any sort of income for overseeing the buildings, a management fee or a superintendent's fee?

Mrs. Bruckler: There is no management fee. We just have somebody who cleans and cuts the lawn.

Mr. Cordiano: That is part of your expenses.

Mrs. Bruckler: Yes.

Mr. Cordiano: You have contracted that out?

Mrs. Bruckler: No, there is no other. No, we do not get any.

Mr. Cordiano: You personally do not get anything?

Mrs. Bruckler: No.

Mr. Cordiano: You personally do not receive any income from those buildings?

Mrs. Bruckler: No.

Mr. Erhardt: As a manager, no.

Mr. Cordiano: As the manager?

Mrs. Bruckler: No.

Mr. Cordiano: Thank you.

Ms. E. J. Smith: It does seem that Mr. Cordiano's question is only part of what I was going to ask. From what I have heard, I would judge that your problem is a long-growing and long-lasting one.

Mrs. Bruckler: Yes.

Ms. E. J. Smith: I think you realize that the people who worked on this bill were trying to represent the problems of both sides and come up with some solutions at least and they included a representative of small business people. Have you looked at the new act to see if it will be an improvement for you? There are things in the new act that I think you should be looking very closely at, because I think you will find there are improvements in sight for you if this new bill carries. I wonder if you have looked at it with that in mind.

Mrs. Bruckler: Mr. Schwartz belongs to the small building association. If there is something, he always lets us know.

Ms. E. J. Smith: I would think Mr. Cordiano has touched on one issue here, that they will allow in new investments for you to have some profit and carrying costs. They will allow for certain management costs in what is permitted, plus the fact you should be looking at chronically depressed

clauses if this bill does carry and you are being paid \$200 to \$300 less than people in similar places. You will apply exactly in that area and the bill actually would seem to be about to provide great relief for you in that way, but it does provide that people with six units do not have to register immediately, but they must if they want to increase their rents. You should look at those and be ready to immediately get registered so you can take advantage of the relief that is built into the bill for you. I think you will find that. Have you looked at these things?

Mrs. Bruckler: No, we have not looked at those things.

Mr. Schwartz: I have.

Mrs. Bruckler: Yes.

Ms. E. J. Smith: I think you will find some of them there. There are other problems that are drawn out in the committee that you may or may not have tenants who will have difficulty with the new rent. That is something that would have to be looked at separately, but as you say, if you have people who are not moving out because your rent is so cheap and who can afford to pay more, then it may be of great assistance.

Mrs. Bruckler: Yes. We have doctors. The one who is moving out is an accountant and the one who moves in is a doctor. Those people are making money.

Ms. E. J. Smith: They do not need assistance. You need assistance.

Mr. Erhardt: They do not need to be subsidized by Mrs. Bruckler.

Mrs. Bruckler: That is what I mean.

Ms. E. J. Smith: If you look closely, you may find the assistance is close at hand if we pass the bill.

Mrs. Bruckler: It is not the ordinary people who are living there.

Ms. E. J. Smith: It is people who can afford more. I understand you.

Mrs. Bruckler: This is what I am talking about.

Mr. Reville: Doctors cannot afford more.

Ms. E. J. Smith: She said doctors--

Mr. Reville: Did you not listen to the--what bill was that, that dumb bill?

Mr. Chairman: I do not know, but it is not before us now.

Ms. Smith, do you have anything further?

Ms. E. J. Smith: No.

15:30

Mr. Cordiano: Mr. Church, I know you commented on this earlier. You were getting back to section 88, I believe it was.



Mr. Church: Yes.

Mr. Cordiano: Might there be some relief in that section of the bill for Mrs. Bruckler?

Mr. Church: Yes, there might well be. I think I should be very careful, in answering this question, not to suggest that there will be. You would have to apply to the new system after the bill passes. Just on quick calculations based on the figures you have given us, Mrs. Bruckler, it is quite possible, but not certain, that under the chronically depressed rent clause in section 88 you would be able to pass through all of the costs associated with operating your apartments, plus you would receive an amount of two per cent each year on top of that until your earnings reached 10 per cent of the amount you actually have invested, or when the rents you are charging reach the level where they were at 80 per cent of comparable units in the neighbourhood.

Looking at this very roughly, it would seem possible that you could end up generating an amount in the neighbourhood of about \$100 a unit over a period of 12 years. That takes a very long time but that would end up being in the ball park of a reasonable return on investment eventually.

Again, if committee members will bear with me, I want to emphasize that is not a certainty--it would require a detailed examination of your records--but it is a possibility under the new act.

Mrs. Bruckler: There is one more thing. My granddaughter got married and we were not able to get an apartment because we had no right for her to move in. She had to rent another apartment and pay \$700. Is that fair if you are not even the boss over your own building, if you cannot even take somebody of your own family in and you have to support other people? Is that fair?

Mr. Cordiano: Mrs. Bruckler, I would like to ask Mr. Church as well, would it be possible for the owners of a building who really supervise the building and act as managers of the building--Mrs. Bruckler pointed out she had not been including in her expense accounts the fact that there would be some supervision of her buildings and as a result not taking any income for that. Would it be possible for her at this point to increase her expenses by actually looking at the fact that she is overseeing the buildings and taking a management fee for that?

Mr. Church: Being careful not to comment on the specifics of your case, Mrs. Bruckler, in general in that instance, it is unlikely under the present act that she would be accommodated for what we call sweat equity of that nature. However, under Bill 51, it is anticipated the regulations would be passed which would recognize the hours of labour that were put in and provide compensation in the rent for the hours of labour put in.

Mr. Chairman: What about the question Mrs. Buckler asked previously about her granddaughter? Who has the answer? Could you again identify yourself for Hansard?

Ms. Stratford: I am Louise Stratford, a solicitor with the rent review division at the ministry. The Landlord and Tenant Act provides that a landlord may terminate a tenancy for the purpose of occupation by himself, spouse, child or parent of that person or of the spouse, but grandchildren are not included.

Mrs. Bruckler: Not included, I know. I am saying the law is unfair when your family would be able to live cheaper but they have to go and pay twice as much and you have to support strange people.

Mr. Reville: Mrs. Bruckler, the Rent Review Advisory Committee said it would be useful to do a review of the Landlord and Tenant Act. You might want to get in touch with them about that specific problem about your grandchildren.

Mrs. Bruckler: What is the use?

Mr. Cordiano: They are looking at it right now. You may want to make a recommendation to that committee. That is what Mr. Reville is saying. He is asking whether you wanted to make a recommendation to that committee.

Mr. Davis: I want to ask a question of Mr. Church so that I can understand. Assuming the data before you is correct, you indicated that this landlord could possibly increase the rent on her apartments by \$100 a month, I would assume, over 12 years. Do you mean it would take her 12 years to increase them by up to \$100?

Mr. Church: That is right.

Mr. Davis: That is about \$8 a year.

Mr. Church: It is about \$10 per month per year.

Mr. Davis: I am glad I am not in the landlord business.

Mr. Church: It is not \$10 per year; it is \$10 per month per year. To expand on that a little, there are two potential areas of relief for Mrs. Bruckler under the new act. The more immediate is the more complete treatment of her sweat equity in the one that has been raised. Depending on the hours she puts in, presumably that would be a fair compensation for the time. That would be immediately added as a cost. However, the one that will move in very slowly, and the committee specifically recommended a slow phase-in, is the chronically depressed relief. I think I should emphasize that it is the only provision in the bill that provides rate of return explicitly for pre-1976 units. Basically, that is why it is so very slow. They all have impact on affordability.

Mr. Chairman: Are there any other questions of Mrs. Bruckler? If not, thank you very much for appearing before the committee.

Mr. Erhardt: Thank you for the opportunity.

Mr. Chairman: Is Raymond Gallagher here? Mr. Gallagher was to appear at four o'clock. If not, I understand that Goldie Josephy is here.

Mrs. Josephy: Do you want me?

Mr. Taylor: Have your coffee first.

Mr. Chairman: Please help yourself to coffee. You gave us a copy of your brief. It is being duplicated, but I understand there are duplication problems, so would you go ahead? Do you have a copy yourself?

Mrs. Josephy: I do and I left one for you. The clerk probably took it away.

Mr. Chairman: That is all right. We are getting it done as quickly as we can, so we would encourage you to go ahead.

Mrs. Josephy: I find myself in a position of being earlier than I expected. I thought I would sit and meditate for an hour. I understand you are going to give me 15 minutes. Is that correct?

Mr. Chairman: We changed the length of time that everyone had to half an hour because there were a lot of complaints that 15 minutes was not long enough.

Mrs. Josephy: It does seem so. In fact, I found myself at half past three in the morning doing a four-page brief, a two-page brief and a one-page extract, according to the indulgence of the chairman.

Mr. Chairman: You have half an hour. That includes questions from members of the committee, so go ahead.

MRS. GOLDIE JOSEPHY

Mrs. Josephy: I start off by apologizing. Can you hear me, by the way? I would not describe this as a brief. Rather, it is a submission by the simple fact that I did not have sufficient time to organize it correctly into a brief.

I think it would be important and straightforward to say that I have a certain amount of experience. I was a national council member of Amnesty International for 15 years, so I am in the habit of presenting briefs on its behalf in Ottawa. I mention it only because it means that my background was very valuable when we set up the High Park Tenants' Association. In any unpaid, volunteer organization, you have to find a number of people who have a certain amount of expertise to give the thing direction.

I want to say a few words on general housing policy, but if I stray too far from Bill 51 and you feel that I am exceeding my bounds or my mandate, please say so.

15:40

I will start off by saying that I very much appreciate the opportunity in a democratic society of coming here and having my say.

To go a little bit into the history of the High Park Tenants' Association, which is relevant to Bill 51 and to Bill 11, I make no apology for the fact that I was in close contact with Mr. Curling and I am very happy that Bill 11 went through because I felt the situation was so serious with regard to affordable housing that if a freeze on condominium conversion had not been brought in, we would have had considerable problems where I live in High Park, which is famous now not only for its sylvan splendour and beautiful trees but also for Messrs. Player, Markle and Rosenberg.

Mr. Reville mentioned that Bill 51 was somewhat like a Russian novel, and I suggest the title of the novel is Crime and Punishment. You can fill in the names of the people who deserve to be punished. I will not mention them. I understand it is before the courts.

I was also told by my son to remember that brevity is the soul of wit, so I will try to stick to the point.



Mr. Chairman: Excuse me, are you speaking on behalf of the High Park Tenants' Association this afternoon or as an individual?

Mrs. Josephy: I am in a delightful profession. As the founder of the tenants' association there, which caused complete exhaustion about a year ago, I am speaking only for me, which gives me a wonderful latitude to say whatever I want. I did not have that before. I have found that there is some merit in resigning from time to time.

I start by saying that I love living in High Park. I notice that in all the hot air that has blown around the neighbourhood, nobody else has mentioned the fact that for me it is an oasis. I am very involved in that neighbourhood.

Do you mind if I say something personal? Maybe I represent a large number of the elder tenants. I have passed my 60th birthday. I have two grown-up sons. I now have a grandson. My son has left home. I had a large house in Ottawa. I have some experience with condominiums. I was living in a townhouse in Ottawa and I was on the board of directors of a Minto condominium run by Lorry Greenberg, who was an excellent builder. Even in those circumstances, it was very hard work being on the board of directors.

The idea of turning these apartments in High Park into a condominium blew my mind. It is hard enough in a brand-new situation in Ottawa, but in my opinion these old buildings are totally unsuited to be condominiums and that is why I opposed it.

Ten years ago, I moved into High Park. My sons were away from home so I did not require a large house. I have been very happy there. As it happens, I am retired but I am writing full-time and it is a very quiet and nice atmosphere for writing. This gives me a certain little corner in High Park in that I write for our Villager. You will be getting a Xeroxed article on the condominium subject when the papers come up.

I write for the Villager and I am very involved with St. Martin's around the corner. I did found the tenants' association. There has been some debate on TV on when it was founded and by whom. I can only say that on one happy day in 1980, after having had considerable problems with my plumbing for three years and having come to a complete standstill with the management, I thought we should have a tenants' association.

At that point, Leslie Robinson of the federation, our alderman, David White, and Dale Martin, who is now an alderman, arrived at my apartment with Christina Pochmursky from the CBC and we had a merry half hour around the table, at which we started a tenants' association. That was 1980.

There were about 25 people in my apartment building and the question asked at that point was: "What do we need a tenants' association for?" In a prophetic statement, I said: "Wait till they kick you where it hurts. You will find out."

Certainly, they fixed the plumbing, although when I went over to the management office--and part of my nasty past is coming out; in my youth, I studied economics--I was told, "My dear girl, do you not realize how much it costs to put in copper piping?". I said: "My dear man, I read your annual report every year and I know the profits you are making. You can put in gold-plated pipes."

For the record, Cadillac-Fairview did not sell those buildings because

it was not making a profit. I am not talking about a sixplex; I am talking about a large complex. It sold them for the very simple reason that it could make more money south of the border.

I love living in High Park. I hope nobody on our present executive or nobody else from High Park will say we are living in some Kafka-like nightmare in High Park. We are near the subway. It is a beautiful neighbourhood. But we have been under very grave stress for about five years, first with the insecurity of the continuous sales and resales. At that time, I personally came in for a great deal of what I can only describe as harassment by the management, because I said there was something very funny going on.

If you read the Elgie report, which I read and which I presume some of you read, one sentence sticks in the mind. Dr. Elgie said there was one factor that Messrs. Player, Markle and Rosenberg did not make allowance for: that was the tenants getting organized. In other words, we were watching them like a hawk. At this point, I think that the Canada Deposit Insurance Corp. has lost \$1.2 billion down the hole on the apartments and the trust companies. I believe three levels of government, i.e. federal, provincial and local, will be watching like a hawk anyone who buys those apartments.

The reason I did this on such short notice is that I went to the Clarkson press conference two weeks ago. I understand there are 150 sealed tenders, which indicates it is a rather desirable purchase, and that these tenders will be opened on September 12. I thought I might as well get my money's worth and say my say before those tenders are opened and our heads are on the chopping block again.

I had the pleasure of reading the report of the advisory committee. The background notes kept me very merry from half past three in the morning. I must be an insomniac. What distresses me about both Bill 11 and Bill 51 is that within all the legislation there is no addressing of overall housing policy.

I would like to make a statement at this point. I am sick to death of hearing people talking about our glorious free enterprise society. As an economist, I say this has never been a free enterprise society; it is a mixed economy in the same way--this is a philosophical statement--that we have come to accept the health care system.

I am wearing a medical chain that will not let me drop dead here. They will remove me to the Wellesley Hospital and pump me full of calcium glutamate. They do not like bodies lying around. In the same way, I believe that housing and food are important.

There are certain axioms I wrote down. I do not like reading notes. Will you forgive me? I prefer to speak verbatim. One of my axioms is that landlords have a lot of power and a lot of money. I am not talking about little women, such as this one little chit; I am talking about vast complexes such as the 11,000 apartments that are going to change hands soon. They have the power of the lawyers and the money and all we have are a few people with certain abilities, myself included--said she, modestly--who by serendipity have landed here. While the landlords have the power and the money, we have the vote, as I reminded Mr. Shymko, who got in by only 300 votes.

My co-chairman, to begin with, was Andrew Witer, who is now is now our member of Parliament. At the point he went to Ottawa, I did at that time feel that the battle of Player, Markle and Rosenberg was over and I could withdraw.

15:50

Now, unfortunately, and I have to word this very carefully, it was a quiet period. A new executive came in which, and I word this carefully, seemed to feel a condominium was a good idea. At the hearing at the St. Lawrence Centre for the Arts on May 1, I reappeared at the urging of many of my members, whom I know personally. After all, if you live in a building for 10 years and you start a committee, people know you. They said: "Goldie, will you please go down and speak for us? We do not want a condominium."

I live at 111 Pacific. I do not know three people in that building who want a condominium. I do not understand the motivation of the present executive, which is now threatening in the Villager, which I write for, to sue the federation executive. I rather like dirty linen being washed in public. That way you get it clean. Would you agree? You do not have to agree; it is a rhetorical question.

I find that in a democratic society it is the democratic right of anyone who wants to work for a condominium to get on and work as hard as he or she likes. It was also my democratic right to go down to the St. Lawrence Centre, where no member of the present executive appeared, and get up and blow my stack. The whole council was there and Mr. Boytchuk asked me a very relevant question. Knowing me personally, he said, "Goldie, what do your neighbours want?"

I said mainly they wanted peace and quiet, some security of tenure, an idea of what rent they are going to be paying and not to have the sword of Damocles hanging over their heads or dire threats being made--as has been suggested in the Villager, which you may have in front of you--that after September 12 their rents probably are going to go up 20.6 per cent. They have worked it out neatly. Although I studied economics in my youth, I admit I have thrown aside the dismal science to the point where I do not work out possibilities to a decimal point. I might have said they may go up 15 per cent. I would not go as far as working it out to 20.6 per cent, but that again is people's democratic right.

As for Bill 51, and I would like to speak to that directly, in my general philosophy of housing I would say it is wonderful that we are going to get a rent registry, which surely we should have had 100 years ago when the first settlers arrived in Canada and divided up the land. I arrived only in 1957 but I have been a citizen now for going on for 30 years.

Apart from the rent registry, what we need is legislation calling, for God's sake, for disclosure of ownership. Surely to God, living where I have for 10 years, I ought to have the God-given right to know who I am paying my rent to. At present, I make out cheques to Clarkson Gordon, care of Maysfield Property. If I were to ask me to hazard a guess as to who still owns those properties--and my guess is as good as yours--I would say probably Messrs. Player, Markle and Rosenberg. Can you disprove me? I do not know. You do not know. Nobody knows.

I am here asking for help. If anyone is alive, awake and listening, bring in not only Bill 51, with its Kafka-like style, but also a straightforward bill calling for disclosure of ownership. I hope there are some press people here and they will quote me on that one, if on nothing else.

The idea of a co-op was hardly discussed. I understand from Mr. Eggleton, who I have been in touch with, that he thought it might be a good



investment for the city. I think it could be run very sensibly as a co-op, not as a condominium.

I am looking at my notes now because I am worried that I might leave something out. I apologize.

I read through the report of the Rent Review Advisory Committee. I actually came for the reception and I had a long interview with Mr. Curling at that time. I think it very admirable that landlords and tenants have come together, talked to one another civilly and even participated over a glass of wine or a cup of coffee.

We are going to get a rent registry. I hope key money is going to be made illegal.

As far as being chronically depressed, I am sure the most chronically depressed section of the population at the moment in High Park are the older tenants like myself--not like myself; I feel very youthful and very merry. We have a lot of people who have lived there since the buildings were built, who are in their 80s, probably somewhat handicapped and distressed beyond measure. They had hoped to finish out their days living there. They said to me, "Goldie, what is happening?"

I cannot expect them to get up at half past three and read Bill 51. They are not able, willing or competent to do so. If you get to 85 and perhaps have Alzheimer's disease, you are not going to start reading Bill 51.

You have to understand the population in these buildings. Am I straying from the point? You have people who have lived there for a long time, such as myself, who are good, solid, middle-class citizens. I say without crying that more than half my income goes in rent. I make that sacrifice. I do not drive, smoke, drink or have holidays, but I love living in High Park. It is my privilege to be eccentric.

You have to consider that for the older tenants, whose rent ceiling of four per cent every year is very difficult for them to reach, it is a real trauma, a real hardship that they might have to leave. The younger people on either side of me--there may be six young people sharing each apartment; they float in and out like yo-yos--could not care less about Bill 51, Bill 11, condominium conversion or anything else except larks in the park. I do have a sense of humour; I am waiting for someone to laugh.

You have to understand the makeup of the people who live there. They are well-kept-up buildings. I understand that a report was done for Clarkson. I know that David Fleet and Janet Lisboa are going to present a brief saying the place is falling down, but I understand from the Clarkson report that the buildings are in good shape. I know they are; I happen to live there.

Why did I start the tenants' association? Growing up in England and being given a sense of community spirit, may God forgive me, I care about my neighbours. When I see them upset and distressed and when I see a gang of very crooked people moving in, as they did--it was proven in open court so I cannot be sued for saying that something very peculiar happened in High Park. Did it not?

Although I was attacked at the time and told I was a troublemaker to the point that I nearly moved out--I am also human and I used to come back from the management office in tears after people had insulted me--I proved to be right.

Apart from the chronically depressed landlord's side--this poor lady whose granddaughter is about to get married; I am sure if she went to rent review she could sort it out--what about the chronically depressed tenants in High Park who have been sold, resold, threatened, worried and cajoled, and now are not too terribly well represented? Ray Gallagher will be presenting a very good, factual brief. He left the hot air to me.

As far as the bill goes, part V concerns the rent registry. I will try to go back to my training in economics. If you look at part III of the bill, "Procedure," on page 12, subsection 17(3), to repeat myself, when Bill 11 was passed we were given a two-year breathing space with the condominium freeze. But when I read a passage that says, "Where...the name of the landlord is not known," I again appeal to the press, if present, to make a clarion call for disclosure-of-ownership legislation. It is much more important than even a rent registry.

16:00

In part V, on the rent registry, I notice there is nothing about financial penalties; there is just a gentle slap on the wrist. In other words, if I find when the rent registry comes in that I have been overpaying for the past 10 years, I cannot expect my landlord to be given a smack on the wrist.

As a tenant, I understand that people are frightened by subsection 88(2), page 39, on chronically depressed rents. Perhaps you will read that closely. I hope I am not worrying you and straining your indulgence, but read page 39, subsection 88(2), which at three o'clock in the morning made sense even to me. It says very clearly that the extra two per cent can apply only if "the landlord has owned the residential complex throughout the period from the 1st day of November 1982 to the day the application is made." That is very central to our situation in High Park because the buildings are about to be resold. Obviously then, this does not apply. Anyone who can read English should understand it.

I understand that David Fleet is going to make a presentation. He has been calling our woe and doom in the Villager, that we are going to be thwacked with these enormous increases including the two per cent. If I can read English, he can read English. You can read English, can you not, Mr. Reville?

Mr. Reville: Yes.

Mrs. Josephy: Am I right or am I wrong? It says the two per cent is applicable only if there has been continuous ownership. Our building, far from being in continuous ownership, has been like a yo-yo. I have watched people walking around and around. They must desire them greatly to have 150 families. While this little lady might be losing money on her sixplex, whoever--and I say "whoever" underlined--owns us at present is not losing any money.

I am saying wait for a rent registry. There should have been one from the year dot. What we need is disclosure-of-ownership legislation. I hope you do not think I have a one-track mind, but even at three o'clock in the morning I can reason, so I got out a few axioms on Bill 51, starting with the one I had at the beginning: Landlords have power and money, but tenants have rights. Every one of us had better believe it.

In fact, it has inspired me so much I am thinking that maybe I could give Yuri Shymko, who got in by only 300 votes, a very good run for his money, as I told him over lunch. I am in a strong position there. After all, I write for the Villager, I am very involved, I am at the church three times a week and I founded the tenants' association. I think a lot of people would vote for me.

Mr. Cordiano: All the Conservatives, Mrs. Josephy.

Mrs. Josephy: Also, it is interesting that we have two Conservative aldermen, Mr. Shea and Mr. Boytchuk. I said to Mr. Boytchuk: "How nice to meet you. Where were you when we needed you?" He will never be rude to me.

Mr. Chairman: I am worried, Mrs. Josephy, that we are going to run out of time.

Mrs. Josephy: I am sorry. You have been very indulgent.

Mr. Chairman: That is all right. I want to be sure you understand that we are under a time restriction. The members might want to ask you some questions.

Mrs. Josephy: I appreciate your indulgence. Perhaps somebody wants to ask me a question.

Mr. Reville: I will ask a question.

Mr. Chairman: I can assure you they do.

Mrs. Josephy: I was going to quote the gospel. In Acts, it says something to the effect of, "Not a man of them claimed any of his possessions as his own, but everything was held in common." That is not communism. You now know the horrible fact that I believe in the Judaeo-Christian aspect, which means we should care about our neighbours. That is the end of my stint.

Mr. Chairman: Thank you very much. Mr. Reville, you have a question.

Mr. Reville: Thank you, Goldie. As always, I enjoyed listening to you. Let me see if I can get you some information. I wonder whether the assistant deputy minister can comment on legislation requiring disclosure of ownership. It might be a Ministry of Consumer and Commercial Relations matter.

Mr. Church: As a matter of fact, I do not believe there is a requirement for disclosure of ownership, but I have my eyebrows raised to any of the legal staff down below. I think Goldie is right that there is no--

Interjection.

Mr. Reville: Ms. Stratford, do you know the answer to that question?

Mrs. Josephy: There is not, but there must be.

Mr. Church: Unless in the next few minutes we have any basis for contradicting the witness, we would tend to agree with her.

Mr. Reville: It seems to me that is a very good point, Goldie, and maybe the ministry--



Mrs. Josephy: Can I hand it to you?

Mr. Reville: I have it now, and the ministry might comment in future as to what might be required to--

Mrs. Josephy: I am not joking. That is what is needed, but I think I should like--

Mr. Cordiano: I can see someone wanting to know the ownership--

Mr. Chairman: Mr. Reville has a supplementary.

Mr. Cordiano: I am sorry; I thought he had finished.

Mr. Reville: Tenants should know who their owner is. In the case of the Cadillac Fairview flip, I remember reading over and over again the phrase "said to be owned by Saudis," and it seems to me it is not much to ask to know who your landlord is. But if Mr. Cordiano has a supplementary on that issue, I am now going to get off the issue.

Mr. Chairman: Mr. Cordiano, do you have a supplementary?

Mr. Cordiano: I simply want to ask, apart from knowing who the owners are, is there any other particular reason for knowing who the owners are that might be detrimental to you as a tenant if you did not know who the owners were?

Mrs. Josephy: I am amazed. I have never owned a car; I am too poor. But if you had bought a car, would you not want to know whom you bought it from? Surely to God you ought to know who owns the place you are living in. It would seem to me that is a fundamental right.

Mr. Cordiano: I am not questioning that. I am just asking whether there are any other particular reasons apart from that.

Mrs. Josephy: If we had known who owned the building, there would have been no way that Messrs. Player, Markle and Rosenberg could have done what they did. They could not have done it; it would have been totally impossible. It could never be done again because, as I said at the beginning, everyone is watching now.

You may as well know that is why, at considerable expense to my very lean exchequer and my nervous system, I have worked on this since 1980 for free for my neighbours. I am not a high-priced lawyer. I am just one person who happens to live there. Of course, none of that would have happened.

Mr. Cordiano: During the course of the change in ownership, and not really knowing who the owners were, was someone available at all times and supervising the building? If you had a problem, did you have access to that person?

Mrs. Josephy: It is rather a funny thing. I not only have access to them but we also have excellent superintendents; they wished me good luck as I walked through the door this morning. The people working in the office, the superintendents, who do a good job, are very overanxious and worried about what is going to happen to them. They are also human beings, and they are my friends; they are not my enemies. They gave me a hard time in the management office simply because they could not believe that what I was saying was true.

I said, "These people are crooked." Now, of course, when I go in, they say, "Yes, you were right."

Bill 11 was a good bill, and I do not appreciate that my MPP, Mr. Shynko, gave me such a nice lunch at the Legislature, then turned around and tried to block Bill 11 from going through and sent it to committee. I lived for 18 years in Ottawa. I presented enough briefs on External Affairs to know what happens when you send something to a committee. It was urgent to put that freeze on.

Maybe the question you should ask me is what my neighbours want. What they want is peace and quiet, not to have their rents go up 50 per cent, some security of tenure, to know who their landlord is and not to have the sword of Damocles hanging over their heads. We are all very chronically depressed. In fact, I have been known to cry, especially when I was told I was a troublemaker by the management office. It is not a nice way of being spoken to. You had better believe they gave me a very rough ride, and if I had had anywhere to move, I would have. Then it comes to the question "Where the hell are you going to move to?" There is nowhere to move anyhow.

There ought to be, in my considered opinion, some kind of overall housing policy. To have somewhere to live should be a right, not just a privilege from an unknown landlord. That is to answer what other benefit there would be.

Mr. Cordiano: There is no disagreement there.

Mrs. Josephy: I am sorry; I get angry about it.

16:10

Mr. Chairman: Are there any other questions of Mrs. Josephy?

Mr. Reville: Mrs. Josephy, you are going to have a hard time convincing this committee that you are easily intimidated. Your building has been the subject of an awful lot of legislative activity since the flip occurred in 1982, and this bill will affect your building. I think you are right in saying that it would not fit under the chronically depressed section.

Mrs. Josephy: No. It is a lovely building.

Mr. Reville: I wonder whether anybody in the ministry would care to comment, given that this is a real-life issue; we think those 11,000 units are going to be sold very soon.

Mrs. Josephy: And we are terrified. This late in the day we are terrified.

Mr. Reville: There are provisions in the bill that allow for a number of things, such as pass-through of refinancing costs. Maybe we could get some numbers for you to share with your fellow tenants. Again, I am sure Mr. Church will indicate that this is not precise; it would depend on an application brought forward by a new landlord, but I am sure you are interested in the kinds of provisions that would apply to your building. Maybe Mr. Church could tell us what some of those are.

Mrs. Josephy: What is worrying us, if I may interject here, is that we do not know whether it will be sold as one big block, in little parcels or what.

Mr. Reville: That would make a difference.

Mrs. Josephy: In fact, I have heard a rumour that it is South African money that wants to come in there. I wonder what the federal government will think about that one.

Mr. Chairman: Mr. Reville, any other questions? Does anyone else have questions of Mrs. Josephy?

Mr. Reville: I was hoping Mr. Church would say something now.

Mr. Chairman: I am sorry.

Mr. Church: Because of the ongoing discussions on these issues with the High Park Tenants' Association, we have done a fair bit of thinking about what the impacts would be. I think we can say definitively that this legislation would in no way allow consideration of the High Park buildings as chronically depressed. I think Mrs. Josephy is quite right; it is not possible.

For clarification, the allegation that has been made in relation to rents in High Park is that the average rent increases will be in the neighbourhood of 20 per cent to 22 per cent. That is the allegation I am specifically responding to.

It is suggested there will be a five per cent financing pass-through of losses as a result of sales. It is conceivable there would be an operating loss after sale if the sale were for a substantially higher price than has at least been mooted in the past. As Mr. Reville says, you would have to wait to see the actual expenditure, but it seems very unlikely that buildings that are now earning a relatively healthy profit would suddenly be put into a loss position. Again, if someone paid an extraordinary amount for the units, under this legislation he could conceivably qualify for some pass-through of financing costs. In the absence of new evidence, I suggest these buildings are unlikely to have significant losses at any time.

Mrs. Josephy: Can you explain to me the figure of 20.6 per cent? That is what is scaring the hell out of my neighbours and me.

Mr. Church: That is what I am specifically responding to, and have in the past, but perhaps it has not received the attention to placate some of your neighbours.

The next point that has been suggested is that there will be an annual increase of 4.6 per cent in operating costs because that is BOCI. In fact, as members of the committee appreciate, the guideline is not only operating cost but also other things. If an application is made for more than the guideline, that also is too high; it would be more likely to be in the neighbourhood of four per cent.

Capital expenditure increases of five per cent are also projected by the association to arrive at the figure Mrs. Josephy refers to. Again, the consultants' report that Mrs. Josephy refers to says there is the need for some capital expenditure. It would not appear there is the need for that. That suggests a huge capital expenditure requirement, at least on the surface. It would require a good deal of scepticism to think that much would be passed through.

Finally, and perhaps most significantly, given the discussion of this committee, the suggested average increase in rents includes an amount of five



per cent as a result of equalization. That is simply false. There is a zero net increase as a result of equalization. I have made that point close to a thousand times to members of the association, but it does not take.

The net effect of all this is that any suggestion that those buildings would qualify for a 20 per cent rent increase in year one is simply silly.

Mrs. Josephy: I wish the press would print that in large capital letters so that some of my elderly neighbours do not jump off their balconies. I am not being funny.

Mr. Church: However, with that said, Mrs. Josephy, we cannot say with any certainty that rents will increase only by the guideline. There is an amount that is higher than the guideline that would reflect increased facilities as a result of capital expenditures, or perhaps increased maintenance as a result of new operating expenditures, that could increase the rents above the guideline which, for argument's sake, we will say is five per cent. Whether that results in a nine per cent increase, a six per cent increase, an eight per cent increase or perhaps, even if there is some financing loss, a 12 per cent increase, remains to be determined.

As a representative of the government, I can say definitively that under this act or, for that matter, under the present act, rents such as are being suggested to the people living in your units are simply not possible.

Mrs. Josephy: It is a scare tactic. I wish the press would publish that. My neighbours are getting very agitated, including me.

Mr. Chairman: Mrs. Josephy, thank you very much for appearing before the committee this afternoon.

Mrs. Josephy: Thank you for having me.

Mr. Chairman: The next presentation is from Raymond Gallagher. Welcome to the committee, Mr. Gallagher.

#### RAYMOND GALLAGHER

Mr. Gallagher: My name is Raymond Gallagher. I live at 35 High Park Avenue, apartment 1008. By way of introduction, I am a founding and current member of the executive committee of the High Park Tenants' Association as well as having served as treasurer. Concurrently, I am an individual supporting member and a member of the executive committee of the Federation of Metro Tenants' Associations.

First, I would like to take this opportunity to thank the acting clerk of the committee and the deputy minister for this opportunity to come forward to present views on Bill 51. Some of the points I intended to make today may have been covered previously. However, in the interests of clarifying major issues, it may be appropriate to reiterate certain things concisely and perhaps to wrap it up for the benefit of our tenants.

Mr. Chairman: Before you go on, Mr. Gallagher, are you speaking for the High Park Tenants' Association or for yourself as a tenant?

Mr. Gallagher: I am speaking for myself as an individual tenant, as an individual member of the association.

Mr. Chairman: Thank you.

Mr. Gallagher: By way of further comment on that point, it should be pointed out that the High Park Tenants' Association is a large and active association, one of the most powerful in the city. At the same time, it is a very pluralistic association and represents a considerable diversity of points of view.

By way of introduction, I would like to give this committee an idea of where we, the High Park tenants, are coming from in terms of our attitudes towards the apparent threat of double-digit rent increases, which seems to be the case initially; why we think that such rent increases, in principle, are unwarranted. I would like to focus on three specific points in the bill itself. I would also like to focus on an aspect of rental housing which inadvertently was not covered by the bill, and finally, I would like to focus on what for us is the central point of concern in this whole issue.

As anybody can realize, summer is a rather difficult time to organize activity or to arouse interest in public issues. However, as you well know by now, High Park tenants are even now beginning to react to Bill 51, in many cases with anger and frustration, concurrent with the news that our buildings will be sold by the end of September.

The government of Ontario has ruled out the possibility of condominium conversion in the interest, as it has said, of maintaining the stock of affordable rental housing. None the less, it has allowed legislation to be drafted which, at first reading at least, seems to threaten tenants with rent increases of as much as 30 per cent. Those who supported condominium conversion are enraged at the loss of an opportunity to buy their apartments at a price which they at least could afford, and these people see Bill 51 in effect as insult added to injury.

16:20

By contrast, those who opposed condominium conversion and who supported government policy in this regard see Bill 51 in its present form as an embarrassment at best. Those in the middle, the rest of us, the agnostics as we call ourselves as contrasted to the true believers on the other side of the issue, are trying patiently, as always, to make sense out of the fragmentary and conflicting reports that have appeared in the media over the course of the summer as well as the rather difficult text of the bill itself. I would like my brief to be amended to delete the word "incoherent." That is not a diplomatic way of putting it.

In very basic terms, High Park tenants want to avoid a repetition of the events of 1982, the things that led to the great flip. We are looking at Bill 51 from the point of view of what happened in 1982, what went into the great flip and what must be written into law to prevent that from happening again.

The underlying economics of our buildings represent a very special set of circumstances that stand uppermost in our minds as we evaluate the government's housing policy and the potential bottom-line impact of Bill 51. As is widely known, our buildings have consistently operated at a profit. The deputy minister made allusion to this a little while ago. Internal cash flow generated by the present rents at single-digit rates of annual increase have consistently been more than enough to cover maintenance and other operating expenses, debt service and budgeted capital expenditures.

Furthermore, ongoing and projected expenditures for both current maintenance and long-term capital expenditures have been characterized by the receiver himself in his report to the court as being "considered by some people higher than industry average" and as being sufficient for purposes of "keeping the long-term cost of such work to a minimum by maintaining current high building standards."

What this means is that for High Park tenants the benchmark of what is affordable and what is appropriate is the present level of rents and the rates of annual increase that have prevailed since our complex was built, which indeed predate rent control itself. We feel that double-digit rent increases are simply not cost-justified in our case and accordingly are unacceptable. We feel that only the mysterious and frequently manipulated workings of the so-called market might serve as a pretext for such double-digit increases.

I would like to discuss section 88 briefly. Some of this ground has been covered already. I am gratified to see that some efforts are being made to clarify these points. With your permission, I would like to go through them quickly.

In terms of the scare headlines, perhaps the greatest single focal point of anxiety is section 88. Notwithstanding the fact that our rents are fully cost-justified, as I just pointed out, a first reading of section 88 seems to indicate that a landlord could presumably maintain that our rents are 30 per cent or whatever below the market. Section 88 in its draft form fails to define, among other things, what is to constitute the market point of reference for evaluating such a claim and what the frame of reference is to be, whether geographic or whatever.

On the other hand, subsection 2 does seem to set forth very specific and clear criteria in regard to continuous ownership from November 1, 1982, which, again on second reading, in effect seems to exclude or disqualify the High Park and other ex-Cadillac buildings from this entire category of chronically depressed rents. On this point alone a great deal of anxiety, resentment and even rage has begun to arise over a question that may possibly not even apply to our situation.

Unless and until the government precisely clarifies the intent and the interpretation of the language of section 88 of the present draft, it cannot reasonably expect that High Park tenants will either comprehend or support the policy. The government need not wait until drafting is complete or the law is passed to provide this clarification. Only by means of such clarification will it be able to vindicate its decision to ban condominium conversion, a decision based on a perceived imperative to maintain existing affordable rental housing, with the emphasis on "affordable."

A second area of concern is in respect of section 76, in which rent increases representing pass-through or finance costs related to resales and flips of buildings are covered. At one time the legislation allowed for unlimited pass-through of such costs. In the aftermath of the great flip, this pass-through was limited to five per cent. Thus, for example, under the current legislation, rent increases following a building sale could be as high as nine per cent; i.e., the statutory maximum of four per cent that is now in force plus the five per cent for new financing costs.

I would like to pose the question, why any pass-through at all? I suggest a total ban on the pass-through to tenants in the form of rent increases of financing costs related to the sale and resale of apartment



buildings. Such a ban would have the effect of narrowing the field of prospective landlords to long-term, cash-equity investors. I further suggest that the return on investment criteria of such investors would likely be completely compatible with the rent stabilization objectives of both tenants and the Ontario government itself. Such investors would probably be reconciled at the outset to a somewhat more modest rate of return as a tradeoff for a stable, long-term source of income.

Furthermore, such investors would have a long-term interest in the upkeep of their properties, thus assuring the maintenance of the quality of life we enjoy at present. As pointed out previously, in the case of our buildings, internally generated cash flow within the constraints of rent review has been and continues to be adequate to cover the expenditures mandated by the Maysfield capital budget, which, as the deputy minister pointed out, the receiver has represented to the Supreme Court of Ontario as being fully adequate to maintain standards appropriate to rental buildings.

Although a banker by profession, I am also a tenant, but I would rather see my rent money paid to a repairman than to a fellow banker, when at all possible. This is why I believe rent review legislation should aim specifically to penalize short-term-oriented, debt-financed speculation while rewarding the long-term-oriented, cash-equity investor. I believe the essence of the great flip was precisely "creating value," as they call it, combined with leverage. In other words, top up the price with purchase, sale and resale back to back, financed almost entirely by debt, the whole transaction made possible by the defective legislation then in force, which allowed unlimited pass-through to tenants of finance charges.

Tenants of the 11,000 ex-Cadillac apartments, of which our complex alone accounts for almost a quarter, request that their elected government assure them nothing like the great flip ever happens again. Zero pass-through to tenants of finance charges arising from the resale of buildings could very well be a crippling blow to the speculators and eliminate altogether from the picture a socially undesirable category of speculatively oriented landlord and investor. It is this kind of landlord and investor that exemplifies "paper entrepreneurialism," as they call it, at its very worst. They are in no way representative of productive, job-creating free enterprise at its best, indeed, at its most businesslike.

A further point I would like to draw to your attention, which may also have been previously covered, is the question of equalization of rents. The bill fails to define precisely what the term "similar" means. Some of the potential difficulties in defining and implementing this concept are clear. You could have two apartments in the same complex, or even in the same building; one might be on the second floor facing an alley and the other on the 25th floor facing the park. You might have two buildings in the same complex, one constructed 10 years ago and one constructed five years later, both completed prior to the implementation of rent controls and with their original rents based on two significantly different sets of cross-factors.

Once again, tenants attempting to study Bill 51 are confronted with a provision, the bottom-line implications of which are not quite clear. Confusion and uncertainty could serve to detract from the positive support from the tenant population that the government wants and certainly is seeking in order to implement its housing policy.

I would now like to discuss what I call the "road not taken." This is an area inadvertently not covered, either by housing policy in general or Bill 51

in particular. I am referring to specific, real, positive incentives for the conversion of apartment buildings to nonprofit co-ops. I feel this is regrettable, because in purely economic terms, the ex-Cadillac buildings would have been perfect for nonprofit co-op housing. The underlying economics of those buildings are such that they would have been self-supporting and they would have been self-financing as a going concern out of internal cash flow, based on present rents increasing annually at a single-digit rate. They would not have required a single penny from the taxpayers as subsidies.

Tenants would have enjoyed the combined benefits of stabilization of costs of housing through minimization of rent increases and preservation of quality of life through maximization of funds available for operating expenses and capital expenditures, both budgeted and discretionary. Tenants definitely would have attained "freedom of destiny," to use a famous recent phrase, and liberation from both speculators and bureaucrats. Unfortunately, circumstances combined to rule out the possibility of pursuing this option.

16:30

First of all, many tenants confused co-op housing with the Ontario Housing Corp. and Cityhome. Second, Canada Mortgage and Housing Corp. financing was unavailable while private sources of financing had not yet been definitively identified. Finally, and I think this is worth pointing out as well, the receiver's management of the sale of the properties effectively discriminated against the nonprofit alternative, notwithstanding the frequently expressed sympathy of both the provincial and municipal governments for the co-op concept.

Court order 1380 was interpreted as a mandate to maximize recovery, based solely on whatever the market would bear without reference to any social housing policy override. Thus far, the government has remained aloof from the proceedings pursuant to court order 1380.

Furthermore, the minimum pre-qualifying offering price for the sealed bids, due by September 10, as set by the receiver, combined with the requirement for debt financing which would have ordinarily characterized a co-op bid would probably translate into rent increases so high as to eliminate any economic rationale for tenants to pursue this option.

In conclusion, all High Park tenants, regardless of what their opinions may have been on the condominium question, whether they were for it or against it or simply sceptical about it, have one central point of concern, and that is that the government has effectively closed the door on both condominium and nonprofit co-op conversion in the interest of preserving affordable rental housing. Having done so, we all feel the government has a duty to assure us that if we are to remain as renters, we must continue to enjoy nothing less than the extent of consumer protection to which we as tenants have laid claim as a permanent entitlement in Ontario. If we are not to move forward to condominium or nonprofit co-op ownership, let us at least not regress or lose ground as renters.

I wish to thank the committee for its time and patience and to thank the deputy minister for the clarifications he has offered today, which, in a sense, pre-emptively answered or responded to some of the points I brought up. I wish also to point out that we are a large, diverse and pluralistic tenants' association. Summer is a hard time to find people, and perhaps it is very easy to conceive of individuals or groups, highly commendably, moving forward preparing submissions and doing things without consultation of the general membership.



If possible, I would appreciate it if the minister could publicly and in writing respond to the specific points brought up by Mr. Fleet, which formed the basis for the initial estimate of the 20.6 per cent rent increases. He has summarized the various points very well. These are questions that tenants are asking. If I have one more minute in my conclusion, I would like to take this opportunity, taking advantage of the presence of the deputy minister, to transmit the following letter to Mr. Curling, which reads as follows:

"Dear Sir:

"Tenants in the 2,635 apartments in the High Park complex and elsewhere across the province are attempting to understand the initial draft of Bill 51 and its bottom-line implications in terms of potential rent increases. You will no doubt agree that the successful implementation of the government's social housing policy crucially depends on the understanding and support of Ontario tenants.

As discussed already with Mr. Sean Goetz-Gadon and Ms. Dana Richardson of your staff, a major point of initial concern is section 88. This section allows for the so-called chronically depressed rents in the residential complex to be brought up to the market level for comparable buildings. Some of our tenants have concluded, perhaps prematurely, that section 88 will result in rent increases of at least 20 per cent and have reacted with outrage, confounding their frustration at not having been allowed to buy their apartments at a price which they at least could have afforded. However, subsection 2 seems to stipulate that a landlord may apply for rent increases on the grounds of chronically depressed rents only in cases, among other criteria, where the landlord has continually owned the property from November 1982 to the present.

"At first reading, it could indeed be construed that High Park tenants can expect a 20 per cent increase. Upon second reading, it seems clear that by definition, our buildings, indeed all ex-Cadillac buildings, would be disqualified and excluded from consideration under section 88 and the latter does simply not apply in our case.

"I would respectfully request that you confirm this point. Such a clarification will assuage the anxiety and defuse the bitterness felt by many of our tenants and will enable tenants' groups to focus their attention on those points of the bill which really do apply to them. It will enable them to participate productively in the dialogue now under way and thus best serve the interests of their friends and neighbours.

"Enclosed for your perusal is a copy of my presentation to the standing committee. I am most grateful to you and your staff for the gracious consideration and attention which has been shown for the concern of High Park tenants and look forward to your reply."

I would like to take this opportunity to transmit this letter to the minister. I think the point I made in the latter part of the letter applies to all the issues that have been brought up, all the points which were apparently brought to your attention and that you have adequately clarified. I feel a public, official, written clarification along the lines you have provided us today would contribute enormously to clearing the air and help us as tenants and as an organized tenants' association to focus on those things that truly concern us and are germane to our situation.

Mr. Chairman: Thank you, Mr. Gallagher, for your pointed and very specific brief. I assume Mr. Church will have no trouble responding to your



request. Maybe that is a heroic assumption, but I do not think it was an unreasonable or difficult request.

Mr. Church: I assume Mr. Curling will have no trouble responding to that.

Mr. Chairman: All right. We will leave it at that then. Are there any questions of Mr. Gallagher?

Mr. Reville: I want to congratulate you on a very tightly reasoned brief, all the more so because you and thousands of other tenants have been under siege for four years in this anxiety-making time when you did not know what was going to happen to your buildings.

I have a suggestion that might be even better than getting a letter from the minister. Shortly before we broke, we discovered that elements of the Rent Review Advisory Committee had gone to Amherstburg to explain Bill 51. I think Mr. Elms, Mr. Church and Mr. Grenier went. It seems to me that this is a very good idea. They might want to go to High Park and talk to all the people about what Bill 51 means. I am sure it would be a very useful exercise for them and for you. I just throw that out and I will wait to see whether anything happens. It is nothing I can require to happen, but I think it would be great if that did happen.

Mr. Gallagher: As a serving member of the executive of High Park Tenants' Association, once our executive is reconvened, I will propose that we invite this group to present a briefing on the bill. Your point is well taken. It would provide an excellent opportunity to make these clarifications and to address the very real concerns tenants have and assure tenants that whatever their rent increases are going to be, they will not going to be 25 per cent, 20 per cent, 15 per cent or whatever. It would at least enable us to focus our attention on those aspects of Bill 51 and the general problems which pertain to us.

Mr. Reville: I was fascinated by your suggestion that there should not be a pass-through allowed at all for refinancing to deal with paper entrepreneurs. I think that is a very good suggestion. I hope that has been heard by members of the committee. One of the most serious problems we have had in our rental stock is with people who are not producing any value at all. I do not think people who are in the business of being landlords or builders have any use for those kinds of speculators. When you create artificial value that way, you throw the whole system off. I am very glad you have made that suggestion.

I do not have any further questions. Thank you very much for your brief.

Mr. Gallagher: Thank you.

Ms. E.-J. Smith: I want to get the assistant deputy minister's assistance too because I think his answers might serve for both of us. Is he coming back?

Mr. Chairman: Mr. Gallagher, are you coming back? We hoped to pursue this matter with you a little further.

Mr. Gallagher: I am sorry. I thought I had been dismissed.

Mr. Reville: I would only like to be in charge of the committee; I am not actually.

Ms. E. J. Smith: There are others of us who ask questions too.

Mr. Gallagher: I am sorry.

Ms. E. J. Smith: It is all right. I wanted to have Mr. Church's attention too because it may be that only he has the answers for both of us to some of the questions you raised. One of the questions would involve Mr. Reville's and your comments about the undue overfinancing for quick profit of paper money. I am assuming this has been looked at and there must be an answer. Therefore, whether it is being addressed in this act or somehow through other controls, I think we both would like to hear something on that. That would be my first question to the assistant deputy minister.

16:40

Mr. Church: This is one of the key issues at the core of the Rent Review Advisory Committee agreement. I do not think I am telling tales to suggest that both the landlord and tenant members of the committee would have been delighted to find a way to eliminate all speculation from this industry. I will not try to detail them, but we can if the members wish. There are a number of very substantial deterrents from the kind of rampant speculation that occurred prior to 1982 under the previous legislation and carried on in the new legislation.

Specifically, the easiest relationship to draw between the pass-through of some financing costs and the situation of landlords relates to the guideline and people such as the landlord who was before us a few minutes ago. If no financing is to be permitted on a capital base on an amortized building, there is no probability of selling the building in the future unless rents can increase in a manner that would guarantee a rate of return on the replacement value. Otherwise, there will not be investment.

Some of the landlord members of the committee suggested that a general guideline rate substantially above the consumer price index would be enough to allow them to agree to eliminate financing cost pass-through as a cost of operation. That guideline level would be applied to all buildings whether sold or not. Naturally, this was not acceptable to the tenant members of the committee.

Without fear of contradiction, I can say the committee wrestled with this for 70 per cent of the time the negotiations went on. This was one of the major items at the core of them. In the final analysis, I think it was generally felt--and I do not want to project motives on to the committee members--that a somewhat lower guideline for 100 per cent of the tenants, combined with substantial but not complete speculation protection for those that were sold, was preferable to a higher guideline for 100 per cent of the tenants. That was essentially the decision that was made.

I think it is fair to say the committee members remain desirous to find a way to improve the formulae and simplify them. That is one of the ambitions the committee has for the future. As time goes on and we see how the system works, we may be able to fine-tune that somewhat. The balance against speculation is essentially one of the higher price that the members of the committee were not prepared to recommend. In fact, the government was not prepared to recommend it.

Ms. E. J. Smith: My other question is with regard to the turning of any building such as this into a co-op. I know something of consumer co-ops

and producer co-ops. In the sense of suddenly turning an owned building into a co-op, I do not understand how that can be done. I am just curious.

To word my question first, and then I am interested in what either of you have in mind, in one sense I am having trouble distinguishing whether the residents are to be the principals of the co-op. Then it is almost a form of joint condominium; it is not a co-op in my understanding of the sense of it. On the other hand, to turn it into a co-op, the government would have to buy it and then turn it into a co-op. I do not understand what is proposed here. You can both answer.

Mr. Church: On the technical basis, it is possible to create three kinds of co-ops: the equity co-op, in which someone purchases for the purposes of profit; to operate a building on an equity basis; or a government-assisted co-op in any number of possible ways, including existing programs. The proposals that are coming out of various Cadillac Fairview buildings are for nonprofit co-ops offered principally to the present residents of the building. Those could be done as a straightforward purchase if the financing could be found.

Ms.-E. J. Smith: Is the idea that the existing tenants would be the owners and managers of that co-op? If so, what would happen if they moved? Would the new tenants become managers?

Mr. Church: They would be offered the first opportunity for occupancy, and the corporation that is set up for that purpose would become the owner of the co-operative, yes.

Ms. E. J. Smith: And new tenants would buy in as old tenants sold out. Suppose I were a member of that apartment building now and moved to a suburb because I had two kids, but decided I wanted to stay part of the co-op.

Mr. Church: As long as you continued to pay the rent on the co-op, you would continue to carry your particular portion of the nonprofit entity.

Ms.-E. J. Smith: In a sense, I would be like my own little landlord of my unit.

Mr. Church: In actual fact, you would probably have no vested interest in doing that, because the new tenant would pay the rent on that unit and carry it.

Ms. E. J. Smith: But then I could move back after my kids grew up. I am just trying to figure out the difference between ownership and this kind of co-op membership.

Mr. Gallagher: I believe I might be able to clarify the point. The bottom line, really, is that a nonprofit co-op would be successful to the extent that it is transparent. Bear in mind that there is no equity involved. You neither buy in nor sell out. You keep paying your rent, except that one day, instead of making your cheque out to Maysfield or Cadillac Fairview Corp. Ltd., or whatever, you make it out to the co-op corporation.

The most important thing about the co-op to bear in mind is that potentially--and I feel very definitely in the case of the ex-Cadillac buildings--it provides a commercially viable means of rent stabilization, independent of rent control legislation and all the vagaries that go with it. The rent you pay to the co-op goes 100 per cent to the maintenance of the



co-op. In other words, your increases would be based solely and strictly on increases in costs and the maintenance of the buildings, capital expenditures, or whatever.

Ms. E.-J. Smith: Who has bought it from Cadillac Fairview?

Mr. Gallagher: This goes to the heart of the matter in terms of the ultimate disposition of our buildings.

Our buildings are in receivership, and I suggest that the nonprofit co-op, from a long-term point of view, could conceivably be used as a means of resolving a receivership situation, or one in which a landlord walks away from the building because he feels he is not making a sufficiently large return. Otherwise, the buildings could be basically sound, with the potential to be self-financing, as is definitely the case with our buildings.

You asked, "What about Cadillac Fairview?" It sold the buildings to the Three Musketeers, as we call them. Then the trust companies' affair intervened. The buildings are now in receivership, and the receiver, Clarkson Gordon, is trying to sell the buildings to recover as much as it can. It has to pay off the Canada Deposit Insurance Corp., which had to disperse that money to the shareholders, pursuant to its deposit insurance obligations.

Ms. E.-J. Smith: Somebody is out in all those--

Interjection: Yes.

Mr. Pierce: Are you suggesting that the receiver or the previous owner would just turn the building over to the new tenants at no cost? Would they just hand over the keys and say, "It has been nice; away we go"?

Mr. Gallagher: No, not at all. A possibility for the disposition of these buildings, I suggest, would have been the sale of the buildings or a transition to a co-op association at a price which would have enabled the tenants to continue to enjoy the present level of rents and single-digit rates of percentage increase.

A number of scenarios have been presented by various tenants' associations. I mentioned before that, as it is, the internal cash flow generated by the rents of these buildings has been and continues to be more than enough to pay for operating expenses and the servicing of the first and second mortgages, which are the only legal mortgages right now. Even beyond that, it has been enough to provide for capital upkeep in accordance with the Maysfield capital budget.

Ms. E. J. Smith: When something goes into receivership and Clarkson Gordon or any other such company steps in, there is usually an unpaid debt. I do not give a darn about William Player or anyone else; I am trying to look at it with personalities out. Okay?

Mr. Gallagher: Okay. With personalities out, I believe you have touched on another point that is also close to the heart of the matter--the famous third mortgage and what is to be done with it.

Ms. E.-J. Smith: Well, another debt. Are there other debts? Banks, for instance?

Mr. Gallagher: All right. At present, there are two mortgages, a

first mortgage and a second mortgage. These two mortgages are being serviced out of the present rents.

Ms. E. J. Smith: By somebody.

Mr. Gallagher: By the receiver in his capacity as receiver. He collects the rents. Out of those rents, he makes principal and interest payments to the London Life Insurance Co. or whatever company it is. He is also paying interest under the second mortgage, which is owed to the Toronto Dominion Bank.

16:50

Ms. E. J. Smith: In effect, he is acting for the owner. The receiver acts for the owner.

Mr. Gallagher: At this point, nobody knows who the owners are or were.

Ms. E. J. Smith: If you went into a co-op, Clarkson Gordon would not be going to run it for ever. Someone has to replace Clarkson Gordon in the pattern.

Mr. Gallagher: Once again, to answer your question, a nonprofit co-op would be successful only to the extent it was transparent, only to the extent the tenants would wake up one morning and literally do nothing but change the name of whomever they write their rent cheques to. Maysfield Property Management has been running the buildings, and a nonprofit co-op could simply turn around and contract the day-to-day management of the buildings out to Maysfield Property Management.

Ms. E. J. Smith: Who are they?

Mr. Gallagher: Maysfield Property Management is the former building maintenance arm of Cadillac Fairview. When Cadillac Fairview decided to get out of the rental real estate business, Maysfield was spun off as a separate building management company. Maysfield Property Management runs the buildings on a day-to-day basis, the superintendent, the ladies who clean the hallways--

Ms. E. J. Smith: Just hang on there. I am trying to figure it out. There has to be someone running the show. It would now be Maysfield Property Management, a spinoff of Cadillac Fairview, instead of Cadillac Fairview.

Mr. Gallagher: No. Maysfield Property Management would be the property manager. They would take their orders from the co-op corporation.

Ms. E. J. Smith: Someone has to stay and receive the rent and run the place. I do not care whether it is a spinoff from Cadillac Fairview or Clarkson Gordon or the bank because it is owed money, but someone has to be there. Co-op does not mean anything in this case.

Mr. Gallagher: In this case, the buildings would be owned by a co-op corporation which would collect the rents and would retain Maysfield Property Management to manage the buildings on a day-to-day basis, clean the hallways, etc. Out of the rents the co-op collected from the tenants, the co-op would pay off the existing legal mortgages and would pay current operating expenses and also carry out ongoing long-term capital upkeep.

Ms. E. J. Smith: Who is responsible for past debts in that scenario?

Mr. Gallagher: In this situation, we are proceeding on the basis that the third mortgage might conceivably be written off. Right now, the only two mortgages recognized as legal and binding are the first and second mortgages. The third mortgage is past due and has been accruing interest for the past three years at 16.25 per cent per annum. Perhaps the key issue in this whole exercise of trying to sell the buildings is how much the receiver is going to be able to recover or how much the receiver will be allowed to recover on that third mortgage on behalf of the Canada Deposit Insurance Corp.

The trust companies made the third mortgage to finance the final flip for the amount of \$152 million. When the trust companies were intervened, at that point CDIC, pursuant to its obligations as deposit insurer, had to pay off the depositors. CDIC then emerged as the senior secured creditor. CDIC said to Clarkson Gordon, in effect, "All right, dispose of the properties and realize what you can so that we, CDIC, may be reimbursed as much as possible for the amount we are now out of pocket."

You have hit upon the heart of the matter, how much is going to be recovered on this third mortgage and, indeed, how much should be. These dollars and cents, and what the bottom line is, are going to be crucial in determining what the rent increases are going to be that we as tenants will have to face.

Ms. E. J. Smith: This concept of co-op housing has to be unique to this one situation.

Mr. Gallagher: Let me put it this way. It would apply very well to this particular situation, but I like to think that the nonprofit co-op could conceivably be a way of dealing with both receivership situations and situations involving building abandonment.

A few months ago in the Saturday Toronto Star, you may recall there was a screaming headline to the effect that the city was going to take over the buildings. We had an emergency meeting of our committee. The yuppies were terrified. They thought it was going to be turned into OHC and Cityhome and all sorts of other dreadful stuff. As it later turned out, as was reported on page 22 of the paper three months later, the idea of the city apparently was to step in, take the apartments off the receiver's hands and then turn around and turn them loose as self-sustaining, self-financing nonprofit co-ops.

The only problem, of course, was at that time the receiver felt he could get a much higher price by selling the buildings as condominiums. Even as a backup, the receiver seemed to feel and has apparently felt all along he could invariably get a better price selling the buildings to a commercial landlord rather than a tenant co-op. Inasmuch as court order 1380 was interpreted as a mandate to maximize, that had the practical effect of ruling out the nonprofit co-op as a solution to this specific problem for the ex-Cadillac buildings. That is my purpose in bringing up the--

Ms. E. J. Smith: I realize I may be taking too much time, but I think for all of us who are not in Toronto, it may be interesting to get more of a concept of that issue. I do not know whether Mr. Church has anything to add.

Mr. Church: The only thing I would add is that we generally call that form of ownership third sector now. We think it does have a lot of areas



where it might be interesting. Certainly, this is an area where it is a very real possibility. If I can add gratuitously, that is without a shadow of a doubt the clearest explanation I have ever had of the Cadillac-Fairview situation, and I want to commend the witness.

Ms. E. J. Smith: Thank you.

Mr. Chairman: Mr. Reville, you had a question.

Mr. Reville: Ms. Smith, I appreciate that not being from Toronto you might not be as familiar as this, but it is not uncommon for a nonprofit co-op to buy an apartment building that is up for sale. In fact, a building four blocks from my house went on the block for sale, an older six-storey building, and the tenants got together, formed a nonprofit co-op corporation, bought the building and thereby were able to stay in their building at rents they could afford. In this situation, all three levels of government have blown it because this would have been a terrific opportunity to put good units into the co-op sector, and it has been missed.

Ms. E. J. Smith: In London, the co-op situation has tended to be more an ethnic group or some identifiable group which backs it on behalf of its people.

Mr. Chairman: Are there any other questions of Mr. Gallagher before you adjourn and have your own private conversations?

Mr. Pierce: Just following that explanation by Mr. Reville, he said, first, that the nonprofit group in the sixplex that he is referring to bought the--

Mr. Reville: It was not a sixplex; it was a six-storey building.

Mr. Pierce: It was a six-storey building. They bought it, so there must have been some equity, but he tells me there is no equity; that they just bought it.

Mr. Reville: They paid the previous owner the price the previous owner wanted, but all the equity is vested in the corporation, not in the members of the co-op, so that if you leave the co-op, you just leave. You do not take any money away with you. That is why they are able to keep the rents down, because all the money that goes in goes towards operating costs and upkeep.

Mr. Pierce: Where did the corporation get the money to buy the building?

Mr. Reville: They borrowed the money, as would anybody else.

Mr. Pierce: They pay it back through their rents?

Mr. Reville: That is right.

Interjection: Out of cash flow.

Mr. Epp: But there is no initial equity. They do not have to put up any equity, 20 per cent or anything of that nature?

Interjection: No down payment.

Mr. Reville: There could be some down payment. It is not impossible. However, that money too would be paid back to the condominium corporation by the membership through the housing charge, which is what they call rents in a co-op.

It is a very interesting and good way to develop affordable housing that is controlled by the people who live there.

Mr. Pierce: But in order to do that, they have to be bankrupting somebody in the neighbourhood to acquire their building.

Mr. Gallagher: Not necessarily. A circumstance may arise in which, as in this case, a building is in receivership, or conceivably you could even imagine a situation where a landlord might just walk away from the building. What I am suggesting is that the nonprofit co-op, properly implemented and properly managed, could represent a means of resolving a problem such as that, securing permanent, commercially viable rent stabilization to the tenants and being permanently self-supporting without having to get a nickel of subsidy from the taxpayers.

Mr. Chairman: Mr. Gallagher, why could you not pay market value for the complex and pay--

Mr. Gallagher: Who is to say what the market is?

Mr. Chairman: Wait a minute now. Market value is what the two parties agree to. Mr. Pierce, we are trying to help you here.

Mr. Pierce: I need the help. There is no doubt about that. Go ahead.

Mr. Chairman: If the co-op purchases the building from a willing seller and borrows money for the down payment to the seller, and then the repayment is paid back through the rents, why do you imply that there has to be a bankruptcy or somebody has to get hurt in that process?

Mr. Gallagher: Not necessarily.

Mr. Pierce: The only reason I implied that was that the only two suggestions here were that a landlord walks away from the building or it is in the hands of a trustee.

Mr. Gallagher: The only reason I brought up those two scenarios is that one of them applies to our specific case, to the 11,000 ex-Cadillac units. As for a conventional property sale situation such as you have mentioned, bear in mind that for the nonprofit co-op to be meaningful or of interest at all to tenants, it must revolve around existing rent levels and single-digit increases. You may have a situation where the market may at some point demand a sales price at such a level that it would translate into rent increases so high as to make the whole thing uninteresting to tenants.

17:00

As I mentioned, the whole purpose of the nonprofit co-op is to minimize rent increases in a commercially viable manner while maximizing internal cash flow available for building upkeep. It does not always have to be a receivership situation or an abandonment. I am simply addressing what seems to be a fact of life. Maintaining the present rent levels and single-digit rent increases appears to translate into a sales price which, in many cases, may be

lower than a straightforward, prospective commercial landlord may want to pay.

Ms. E. J. Smith: In fact, co-ops have often been born out of or come to serve in a situation where the free enterprise system has not quite worked. The fishing industry in the Maritimes is a sort of co-op.

Mr. Gallagher: What we have in the former Cadillac Fairview apartments situation is an instance where the free enterprise system, unfortunately, has malfunctioned. I feel the nonprofit co-op could have represented a free enterprise kind of solution to that.

Mr. Epp: Given this explanation and what has gone on here, it appears that the best solution to our housing problem in Ontario might be to make every building a co-op.

Mr. Gallagher: Not necessarily.

Mr. Epp: We must keep in mind--and Joan Smith touched on this--the fact that if you do not have in every one of those buildings the proper leadership and people prepared to give hundreds of hours of their free time to develop a co-op and make sure it is managed properly afterwards, it will not happen. Not every building has those leadership people in it.

You cannot get somebody from outside, from a profit-making organization, to come in and organize your co-op on a nonprofit basis. This is the thing that is lacking, that Joan Smith touched on and that has not been emphasized here. Otherwise, you could do that with every building in the province. You do not have these leadership people in every building in the province and you do not have them in every Cadillac Fairview building.

Mr. Gallagher: Once again, the examples of successful co-ops very frequently are smaller buildings, low-rises, where you will have a group of stewardesses, trade unionists or whatever, and everybody pitches in and somebody mops the floor once a week. This is the standard image that many people have of co-ops. However, for your larger buildings, your larger high-rises, were the co-op corporation simply to retain a property management company such as Maysfield, the property management company would do the mopping of the floors or whatever on a day-to-day basis.

Mr. Epp: And work on a profit motive basis.

Mr. Gallagher: The property management company would carry out this function for a fee, but that fee would be part of the ongoing--

Ms. E. J. Smith: Who is going to keep them from hosing you?

Mr. Epp: This is the whole thing.

Mr. Gallagher: I can see your point to the extent that you could subcontract the day-to-day maintenance to a property manager, but you would need at the very least a--

Ms. E. J. Smith: Somebody running the co-op.

Mr. Gallagher: --strong board of directors.

Ms. E. J. Smith: Yes.



Mr. Gallagher: I am saying that, given the right circumstances and the right leadership, this concept could conceivably be implemented in your larger high-rise buildings.

Mr. Epp: It is another option.

Mr. E. J. Smith: That is very interesting.

Mr. Pierce: I still want to pursue the fact that, in most cases, to make this concept work, you have to be in a situation where the building which you are occupying is acquired at a very depressed price, not at market value price. Whether it is a bankruptcy or whether the landlord walks away from it or just gets out from underneath it by selling at a depressed price, it is not the average run-of-the-mill apartment block that is sitting downtown in Toronto or out in Scarborough that makes nonprofit the way to go. When you are talking about single-digit increases based on nonprofit, you are not talking about taking a building at street-level prices.

Mr. Gallagher: I am talking specifically in this situation about buildings in receivership which could be taken off the hands of the receiver, turned loose and allowed to operate self-sufficiently as nonprofit co-ops.

There might possibly be a trend in the future. You may have in effect two separate housing markets. You may have a very much of an upscale housing market geared to people who can afford to pay \$2,000 to live in Harbourfront or wherever. However, at the same time you will have another housing sector for middle-income and lower-income people. We could conceivably get to a point in this province when, for whatever reason, a lot of conventional equity investment might be going into upscale rental housing. It could very well be that the nonprofit co-op might be a means of ensuring that middle-income rental housing is not only maintained but also expanded.

Ms. E. J. Smith: May I ask a question on that? How do you get your lower-income and middle-income people to leave in that situation when there is no longer a low or middle? Say you are a student going to college and you are going to be a doctor. We had a woman in here who pointed out a situation where one of her tenants who was in this very low rental was a doctor. You started there because you needed it and now you do not any more. We are overlapping into social problems when you start putting it on an income instead of a rental basis.

Mr. Gallagher: The intent is not to start getting into that whole area, which as you correctly point out is very complex and messy. However, I want to go back again to my central point that for this specific case, involving as it does a receivership situation, I feel the nonprofit co-op could have been an ideal solution for the tenants and would have attained what the tenants wanted. It would have stabilized the rents, it would have maximized the upkeep of the buildings and it would have contributed to the government's objectives of maintaining the stock of affordable rental housing.

Mr. Chairman: We will give the last question to Mr. Pierce.

Mr. Pierce: Are you in any way suggesting there may be a qualifier for somebody being able to move into nonprofit in your apartment building?

Mr. Gallagher: No, quite the contrary. We are talking about the specific case of the ex-Cadillac buildings, as I mentioned before. In a very real and literal sense under this scenario, literally nothing would change.

You would continue to live where you live. You would pay your rent. You would then have the benefit of annual increases which would remain within the single-digit range. You would enjoy the benefit of good-quality upkeep of the buildings and, as I mentioned before, a scenario such as this would be successful only to the extent that it would be transparent and would represent business and life as usual on a day-to-day basis, with no disruption or change of the living habits or lifestyle of the existing tenants.

Mr. Pierce: Do you see long lineups of people waiting for somebody to die in your apartment building to get in?

Mr. Reville: Yes.

Mr. Pierce: I am serious. You are talking about rents that are going to be depressed below that of normal street-level rents because you have been a recipient of a building that was taken through a bankruptcy or through a landlord walking away from it. You are talking about no qualifiers to get into the building. You are talking about people who could be in the middle-income to high-income brackets accessing apartment buildings that are now at very depressed levels. I am curious. There are going to be long lineups of people sitting outside your door waiting to get into those apartment buildings, and why would there not be?

Mr. Gallagher: Essentially, you are describing life as it is right now. Our apartment buildings, and indeed most apartment buildings, are covered by rent control. There is a low vacancy rate. This is an ongoing fact of life which we hope will be resolved over time.

Mr. Pierce: Your suggestion does not change that situation one bit.

Mr. Gallagher: What it addresses, however, is ensuring that the tenants of these buildings at least would not have to be faced with the prospect of double-digit rent increases.

Mr. Pierce: However, the other guy living next door is, and that does not bother you a bit, as long as you are protected.

Mr. Gallagher: No, not at all. Any solution would have to be part of a broader thrust. We realize this is what the government is trying to accomplish in this housing policy: both to maintain the existing stock of affordable rental housing and to create incentives to expand that stock.

Mr. Pierce: I have to disagree with you. I think we are here to draft legislation that will protect the landlords and the tenants in Ontario, not individual small groups one at a time.

Mr. Gallagher: We are definitely not talking about small groups. In this case, we are talking about a fairly large block of apartment buildings. The purpose of this set of remarks was to suggest that in terms of disposing of the ex-Cadillac buildings, given the circumstances of those buildings and specifically the underlying economics that prevail, the nonprofit co-op could have been a happy solution to the problem.

Mr. Chairman: It is quite possible, Mr. Pierce, that the number of tenants in the Cadillac Fairview units is greater than the entire population of Rainy River.

Mr. Pierce: That is quite possible. I do not doubt that a bit.

Mr. Chairman: It is not an insignificant group of people; I am sure you would want to agree. Mr. Gallagher, thank you very much. You have stimulated the committee, which is not at all a bad thing.

The committee recessed at 5:10 p.m.





STANDING COMMITTEE ON RESOURCES DEVELOPMENT  
RESIDENTIAL RENT REGULATION ACT  
TUESDAY, AUGUST 26, 1986  
Evening Sitting



CHAIRMAN: Laughren, F. (Nickel Belt NDP)  
VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)  
Bernier, L. (Kenora PC)  
Cordiano, J. (Downsview L)  
Epp, H. A. (Waterloo North L)  
Knight, D. S. (Halton-Burlington L)  
Pierce, F. J. (Rainy River PC)  
Reville, D. (Riverdale NDP)  
Smith, E. J. (London South L)  
Stevenson, K. R. (Durham-York PC)  
Taylor, J. A. (Prince Edward-Lennox PC)

Clerk: Decker, T.  
Clerk pro tem: Arnott, D.

Staff:  
Ward, B., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:  
Curling, Hon. A., Minister of Housing (Scarborough North L)  
Church, G., Assistant Deputy Minister, Corporate Resources and  
Building Industry Development

From the Parkdale Tenants' Association:  
Melling, M., Vice-chairperson

Individual Presentations:  
Harnden, R. F., Audrich Properties Inc.

Jelinowicz, M.

From the Federation of Metro Tenants' Associations:  
Hale, K., Chairman, Law Reform Committee  
Holt, P., Executive Member



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, August-26, 1986

The committee resumed at 7:05 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT  
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The resources development committee will come to order. The first presentation this evening is from the Parkdale Tenants' Association. Is Michael Melling here? Mr. Melling, perhaps you will take a seat and make yourself comfortable. We are pleased you are here representing the tenants of Parkdale. This is exhibit 57 in the package the members of the committee have.

PARKDALE TENANTS' ASSOCIATION

Mr. Melling: I am here tonight to tell you basically only one thing and that one thing is that tenants are angry about Bill 51. Last week the Parkdale Tenants' Association and the Federation of Metro Tenants' Associations held a public meeting in the Parkdale community. More than 100 tenants turned up for that meeting despite the fact that it was a nice sunny evening, the Canadian National Exhibition was going on and it was midweek. Those 100 tenants had a clear message in mind at that meeting, and it was that Bill 51 is unacceptable to tenants in its current form.

Members of the committee, if you have read our brief you will know that is basically what we said. The brief has been endorsed by the executive of the Parkdale Tenants' Association and by unanimous vote of the tenants who turned out for the public meeting to which I have just referred. I do not propose to read the brief tonight, since you have it available to read yourselves. I propose to summarize what I consider to be the important points contained in it.

The first point, which we wish to stress, is that from our point of view Bill 51 is not all bad. The idea of a rent registry is a good one for which the tenants' movement has been fighting for some time. The idea of establishing provincial minimum maintenance standards is also a good one. The idea of expediting the rent review process is a good one. The inclusion of roomers' units in the bill, with the conspicuous exception of the section dealing with the rent registry, is also a good idea.

Tenants feel that if Bill 51 were improved it would become acceptable to them and they would support its passage. However, fundamental changes are required and that brings me to my second point. Bill 51 proposes an outrageous transfer of money from tenants to landlords. Look at the bill. An estimated 5.2 per cent to 5.5 per cent guideline increase for the coming year, rent equalization, so-called chronically depressed rents, relief from hardship, relief for financial loss--the list is endless and however you add it up, it is big money in owners' pockets.

The question that perplexes the tenants' movement is why. We are told that the extra money is needed as an incentive to landlords to increase the supply of affordable rental housing. We are told it is needed as an incentive to landlords to improve maintenance. That brings me to my third important point. Incentives have not worked in the past. They will not work now. They will not work in the future. Why not? First, because most developers want to build and sell. They do not want to build and manage and so they do not care about higher rent incentives. They want handouts from the government to build rental accommodation.

Of course, most landlords are not interested in building either. They are interested in managing rental accommodation. Higher rents to them are an incentive, but an incentive to do what? According to what we hear and read in the papers, they are an incentive to maintain their buildings. What incentive is there in Bill 51 to do so?

19:10

Put yourself in the position of someone who is in the business of owning rental housing. "Being in the business" means they do it for money. They do not do it because of the warm feeling it gives them to house people. If you are in that position, you can choose between using a whopping rent increase to do necessary repairs and perhaps throw on an extra coat of paint, or you can do necessary repairs, forget the paint job and pocket the difference. What do you do? It is hard to believe that anyone is so naïve to believe that the majority of landlords in Ontario are going to spend that extra money to do the repairs, especially when there is a supply crisis and when tenants are being forced into inferior accommodation because there is no where else to live.

If Bill 51 passes, we can be sure of at least three things. First, the landlords' standard of living is going to go up; second, the tenants' standard of living is going to go down; third, the Fair Rental Policy Organization of Ontario and its ilk will place more and bigger ads in our newspapers telling us to get rid of rent controls.

Why is it we have all this talk about a need for incentives and higher rents and more money for landlords? There are two reasons. The first reason is that landlords have become a powerful and well-financed political lobby group. No sooner was the ink dry on the Rent Review Advisory Committee report than Mr. Grenier's fair rental policy organization put ads in the Globe and Mail and the Toronto Star calling for an end to rent controls.

Second, landlords, as does everybody else, want to take advantage of the minority government situation. The real question before this committee is, "Are Ontario landlords suffering?" The answer to that question is "No." If they were suffering, we would hear about it. There would be evidence to substantiate it. There would be reports of bankruptcies.

Some landlords are smart enough to admit that they are making money, but they say they cannot make money on the construction of affordable housing. If that is so, it brings me to my fourth point.

If private landlords cannot make a profit on affordable housing, we should knock the profit out of affordable housing and build it in the public sector.

The problem, you will remember, is the supply of well maintained, affordable housing. I submit that our concern and your concern should be that

public money be channelled efficiently towards solving that problem. You do not pass a law that forces tenants to pay more money to landlords and then keep your fingers crossed that they will build more housing. That is the inefficient way of allocating funds.

Mr. Chairman: I hate to interrupt you, but there are quite a few people coming in and the committee is pleased to have this interest in our proceedings. The clerk has gone to see if there are more chairs available. If you can be a little patient, we will try to get some more chairs in the room. Sorry, Mr. Melling. Go ahead.

Mr. Melling: What do you do if that is the inefficient way? You use tax money to build the housing in the public sector without profit, and you make your tax money back on the rents you charge. That is the efficient way to allocate public money towards affordable housing.

Take maintenance. What is the inefficient way? You pass a law to force tenants to pay more money to landlords, and then you wish upon a star that they will keep up their places. What is the efficient way? The efficient way is to pass laws providing for penalties for those who do not repair their premises, and then you provide direct financial incentives to small landlords who genuinely cannot afford to pay for renovations and maintenance.

At the beginning of my presentation I said that tenants are angry. The group of people to my right is largely a group of tenants from the Parkdale community. These people are angry. I would like to tell you very briefly why they are angry.

1. They are angry because this government is proposing to break its promise to tenants of a four per cent rent increase guideline for two years.

2. They are angry because Bill 51 is a gravy train for landlords, and it is tenants, not anybody else, who are going to be ladling out the gravy.

3. Tenants are mad because inflation is down and you are proposing to put our rents up.

4. Tenants are mad because the real value of tenants' income has declined in recent years and the real cost of our rents has increased.

5. Tenants are mad because unlike the case of landlords, there really are low income tenants, people who are poor, people who cannot afford to give away the amounts of money contemplated in Bill 51.

6. Tenants are mad because they want a rent registry that covers every rental unit, including roomers, and they do not want to reward landlords who have charged illegal rent increases in the past.

7. Tenants are angry because you are proposing to take away their initial rent review hearing and replace it with some bureaucratic paper-shuffling.

8. Tenants are angry because what you call a chronically depressed rent is an affordable rent and when those rents are jacked up, there are going to be economic evictions. In Parkdale, Bill 51 will decrease the supply of affordable housing, not increase it.

9. Tenants are angry because rent equalization will hurt long-term, low



income tenants the hardest, and rents are only being equalized up; they are not being equalized up and down at the same time.

I suppose, most of all, Mr. Chairman and members of the committee, tenants are angry because the government has given in to pressure from the landlords' lobby. Tenants cannot afford Bill 51. We therefore respectfully request that the committee adopt the recommendations which we offered in our written brief.

Mr. Chairman: Thank you, Mr. Melling, for your presentation. I suspect that members of the committee will have a question or two for you.

Mr. Epp: I have one question for you, Mr. Melling. You have indicated that the landlords are going to have a gravy train with the proposed legislation. If it is such a gravy train, in the same breath why did you indicate there was going to be a decrease in the supply of housing in Parkdale? How can you have a gravy train and everybody clamouring to build these units because there is so much money to be had and, at the same time say they are not going to build the units?

Mr. Melling: There are two answers to that. First, I do not believe it is actually going to result in landlords clamouring to build new units.

Mr. Epp: No, but my supposition is that if there is so much money in it, as you indicate that there is so much money in it, then why would they not build units to make all this money? Because that is what you said.

Mr. Melling: My first point is they can pocket the difference. That is why they will not build new units. Second, my point was directed to the supply of affordable rental accommodation, not all rental accommodation. What I am saying is if rents are forced up, there will be economic evictions in a community like Parkdale. That being the case, the supply of affordable rental housing will decrease. The supply of rental housing may remain the same, but that part of it which is affordable will decrease.

Mr. Epp: At what level would you say is affordable and which is unaffordable, \$500, \$400, \$300?

Mr. Melling: Studies by the social planning council have shown that if a tenant is spending more than 25 per cent of his or her monthly income on rent, then that accommodation is not affordable. We have tenants in Parkdale who are spending up to 60 per cent of their monthly income on rent.

Mr. Epp: That would, of course, depend on how much they earn, would it not?

Mr. Melling: That is correct, because--

Mr. Epp: Because if you are earning \$100,000 a year and you spend 50 per cent, it still leaves you with \$50,000.

Mr. Melling: That is correct.

Mr. Epp: But if you are making \$5,000--

Interjections.

Mr. Chairman: Order, please.

Mr. Epp: But if you are making \$5,000 and you spend 50 per cent, then there is a great difference in that, is there not?

Mr. Melling: That is correct. I am addressing primarily the problem of affordable housing for people on low and low-moderate, moderate incomes. If the private sector wants to provide housing, it can do so at the high end, but if it cannot do so without overcharging at the low end, then the public sector should provide that housing.

Mr. Reville: Thank you very much for your brief. You will not be surprised to know that I agree with almost everything you say. However, I will avoid the temptation of playing to the crowd.

Ms. E. J. Smith: Will you promise that?

Mr. Reville: I will not deliver my 30-minute tenant speech actually, Mrs. Smith.

There is one thing I want to get clear about, though. It is very important, because the Minister of Housing (Mr. Curling) has said it over and over, that we must not tamper with this bill.

19:20

Interjection: Why not?

Mr. Reville: Because the bill, he says, is the product of a historic consensus between tenants and landlords.

Is your tenants' group part of this consensus or is it not?

Mr. Melling: I think our brief is a 20-page exercise in proving that we are not part of any such consensus. There is no such consensus. The persons who were appointed to speak on behalf of tenants on the Rent Review Advisory Committee were not nominated by or representative of the tenant movement. The Parkdale Tenants' Association never participated in this whole process, and considering that we are one of the largest and most well-established tenant groups in Metropolitan Toronto, I would find that unbelievable.

Mr. Reville: Let me play devil's advocate. The co-chairman of RRAC is a director of Parkdale Community Legal Services.

Mr. Melling: That is correct.

Mr. Reville: You are suggesting there has not been any consultation between the co-chairman of RRAC and your tenants' association, nor has there been any endorsement of the RRAC recommendations by your tenants' association.

Mr. Melling: That is correct. The Parkdale Tenants' Association passed a motion which in effect expressed the same concerns with the RRAC report as we expressed with Bill 51. Of course, we had some idea of what the co-chairperson, Mary Hogan, was doing, but it was clear during the whole RRAC consultation process that those people were acting as individuals and not as representatives of organizations.

Nothing illustrates that more clearly than that Mr. Grenier's lobby group printed the ads the very day after the RRAC report became public. I believe those ads were placed on April 19. If he was acting in his personal

capacity, then perhaps some landlords' representatives are going to have disagreements with him about the position he took, and the position is similar in the tenant movement.

Mr. Reville: You would be interested in a newsletter from the Fair Rental Policy Organization. It is the July-August 1986 newsletter, in which Mr. Grenier's editorial suggests that the RRAC report has saved the day for landlords and that they have managed to convince 95 per cent of editorial writers that rent review should be phased out. Can you give me any comment on that?

Mr. Melling: I think he is doing his level best to convince editorial writers of that. I am sure the tenant movement is not going to put up with anything like that.

Mr. Reville: How would the Parkdale Tenants' Association feel if rent review were phased out?

Mr. Melling: To tell you the truth, I do not care how the tenants' association will feel. Tenants will be outraged. Tenants are going to be very angry if rent review is phased out, and tenants are going to be very angry if this bill goes through in its current form. I can tell you as plain as day, it was clear from the public meeting we had last week that the average rank and file tenant has a very good idea of what is going on in Bill 51, and they are not happy with it.

Ms. E. J. Smith: I think we have been led to believe by the people in many areas that at least what has been accomplished here is a bringing together of two groups--and I would like to quote what has been constantly repeated--who were mad. They can sit down to talk to each other and understand that there was a problem that was a little broader than their own anger, not that their own anger did not have roots on both sides. There was anger that was justifiable to many landlords for reasons that they put forward, and to many tenants for legitimate reasons they also put forward.

I think the effort they both made was to try to state social causes and the social need for support of people with inadequate incomes and the high cost of living in today's society, to separate that out and look at it as one of the problems and to look at the problems of landlords as another. We have had in front of us small as well as big landlords. The problem with the big ones is that they will not reinvest. They are all going into the ownership market. The problem with the small landlords is that many of the ones where I live and come from have invested their money as they would in pension funds; it is something on which they expect a return. We have not been able to address their problem either.

It seems the bill has not addressed the totality of either problem, the problem of people with inadequate incomes or the problem of people with an inadequate and unfair return on their investments. None the less, it is something both groups pushed upon us as a very strong improvement on what we have, as long as we recognize that other supports must go in there. In other words, there should be more support for people with inadequate incomes, more support housing with rent geared to income or whatever. These things were all recognized.

You mentioned the Social Planning Council of Metropolitan Toronto. It supported this but emphasized the need for more rent-geared-to-income housing and support systems. It separated the two problems. In your discussions, have



you made an effort to separate these two problems, the problem of the small landlords--maybe then you can be less angry; it could be some of your parents--from the problem of the people who actually need government support to have decent housing, which is fully recognized? I fully accept that. There are two problems that have to be recognized. I wonder whether your group has looked at both or only at the very serious problem of how to provide housing for those with inadequate incomes.

Mr. Melling: I think we have looked at both problems quite closely. As I said in my presentation, we see nothing wrong with providing direct incentives, whether by way of the taxation system, interest-free loans or whatever to assist small landlords who genuinely need money to bring their premises up to maintenance standards and so forth. We separated that issue of the small landlords from the general issue of the large landlords.

We have also separated the people who need rent-geared-to-income housing, people on variable incomes and people on social assistance from the people who fall into the economic class just slightly above that. Under the current system, these people do not qualify for rent-geared-to-income housing. As a result, they are forced into the private affordable market. It is at that point that this bill will have its most devastating effect. It will take its toll on people who will not get into assisted housing either because they do not qualify or because there is not enough assisted housing. They are forced into the private market and will see their rents go up because they are deemed chronically depressed, because they are going to be equalized, because the landlord is suffering a financial loss or because of the guideline increase and so on.

Ms. E. J. Smith: A lot of the problems you have mentioned also existed in the old bill. You talk about taxes, financing, hardship and so on. These are problems we have had with us.

One of the major problems the new bill tries to address is the tremendous need to draw back a level of confidence so there there will be investment in the housing market again for rental rather than just for purchase. You may knock editorial writers and so on, and even social planning councils, but most people who have a great deal of involvement in these areas seem to recognize that the government cannot take over all rental housing or we will end up having to cut back on dealing with almost every other social problem. In other words, housing must compete for other public money.

There are so many good things we would like to support. If we do not attract some investment capital back, we could invest almost all the money we have in housing projects because it is such a huge field and is in such disarray. This balancing of priorities and this trying to find a way to get the housing money back to those who need it is one of the major issues we are attempting to address. It is not as simple as it seems. From what we hear from witnesses, it seems that in some of the supported housing there are people who can well afford to be paying more.

19:30

Ms. E. J. Smith: We had a woman here today who was certainly of retirement age and who I assume was retired who has a sixplex. She figures she will never get back, for needy people, one of her apartments that rents for \$300. The person in it now is a doctor. Why move out? It is cheap rent at an

unfair price. The status quo does not direct the money in the right direction, to those who need it.

To try to get the property problem into a property relationship and then also have money left to look at the needs of people who really need help is part of what was addressed here. A very essential part of what was recommended to us was the increase of other programs to look after those with financial need. It also is the balance of getting government out of one program where it should not be to have more money to put in one where it should be. I wonder what you think about that.

Mr. Melling: The point I am trying to stress is that there are two ways you can go about throwing public money at housing. One is to throw it at the landlords and hope they will spend it on housing and one is to throw it at the housing. I do not mean to camouflage what I am saying so that you are lulled into thinking this is not going to result in a massive increase in building. I think it is. The government has to undertake a fairly substantial public housing program.

Ms. E. J. Smith: Agreed.

Mr. Melling: I concede that immediately. I am saying that this bill gives a big lump of money from tenants to landlords and says: "Do with it what you will, but we hope you will bring up your maintenance standards. Get out there and build a housing program."

Ms. E. J. Smith: Agreed; that is very important.

Mr. Melling: In my experience, that has not happened on a large scale in the past and I do not believe it is going to happen on a large scale in the future. I believe that a large amount of the money transferred from tenants to landlords is not going to be used for the purposes this bill tries to address.

Ms. E. J. Smith: The government is not addressing just the good landlords; that is not our business. Looking at several young people I know, the government should not be helping to subsidize their rents. They may or may not be lucky enough to get into a place where the landlord is stuck with a bad deal. I am not in a position to make a judgement on whether he is a good or bad landlord. Some of the young people I am talking about should not be subsidized by government. We need to get free enterprise back for them so that our money is available to help those who need our help.

The section of the bill you are not looking at is that we are trying to draw free enterprise back into the market for people who can afford to can pay more of their way free and leave more government money to go where it should go for people with shelter needs that need protecting.

Mr. Melling: I understand exactly what you are saying to me. However, I find it perplexing. I was at a conference with Mr. Grenier not long ago. Mr. Grenier said: "We do not want to build affordable housing. We cannot make money on it. We would be happy to build just high-end, luxury and high to moderate stuff, but the government wants us to build affordable housing."

The agenda has been set by the government for private enterprise. It is not going to be free enterprise in any sense of the term. It is going to be the old corporate-welfare-bums syndrome. The only reason these landlords will be involved in this business is because the government pays them to be. That

is an inefficient allocation of public funds. The efficient way to do it is to create the housing yourself and to leave the private landlords who want to stay in the business and make money on the high to moderate and the high end to do so.

Ms. E. J. Smith: Let me make an observation that may be right or may be wrong. Only time will tell. The Mr. Greniers and the big financiers whom you see as the only type of landlords may well stay in the high-return and upper-middle-return type of housing. That is fine, at least in the community where I live, and I think potentially in Toronto too. I visualize many small landlords, who are the biggest group of landlords we have anyhow, who will be quite happy to look at this middle area. We just need to make room for them for enough security with medium return, which is what we visualize. I am not suggesting that Mr. Grenier is greedy, but the big corporations may be geared to a different situation. The many small house builders finally, and there has been a tradition of house and apartment building in the past, may come forward and get back into the market. That may resolve a middle-ground problem that leaves money for those who really need government support.

That is my hope with this bill. I want you to know that I am not guaranteeing it, the minister is not guaranteeing it and Mr. Grenier even says he does not know whether it is going to happen. However, you have to keep in mind that we know the big corporations will build for the wealthy and we know the government must look after those who cannot produce enough income to look after themselves. However, to try to create a bill that draws in the middle builder for the middle income is very important to me--the small builder, the beginning entrepreneur for the beginning apartment dweller.

Mr. Stevenson: I appreciate Ms. Smith's thoughts. I wonder whether the minister could express them quite so eloquently or whether he has a similar understanding of what is going to happen. I want to ask a brief question on your written brief. I am not sure I completely understand your recommendation relating to costs no longer borne.

Mr. Chairman: What page is that, Mr. Stevenson?

Mr. Stevenson: That is on page 18.

Mr. Melling: It is our feeling that if a landlord receives a rent increase that has been granted in order to cover a cost, whatever that cost may be, at the moment in time at which that cost becomes no longer relevant to the landlord--say, 10 years down the road, when it is all paid off--the part of the rent increase the tenant paid to help pay for that cost should be reduced. Since the landlord no longer bears that cost, there is no reason for the tenant to continue to have to pay it into the future. The rent should be reduced in the amount of that part of the cost.

Mr. Stevenson: That is different from what Bill 51 is proposing.

Mr. Melling: That is correct.

Mr. Stevenson: It is proposing a reduced increase but not necessarily a reduction in rent.

Mr. Melling: That is correct.



Mr. Stevenson: With respect to the retroactive period, are you suggesting that we go back farther than is indicated in Bill 51?

Mr. Melling: That is right.

Mr. Stevenson: Okay; thank you.

Mr. Reville: You will know, Mr. Melling, that subsection 75(2) relates to costs no longer borne and the government is suggesting that 80 per cent of the amount allowed should be taken out. You are suggesting 100 per cent, I take it.

Mr. Melling: That is correct.

Mr. Reville: Let us say the landlord replaced all the refrigerators and the tenants paid that cost over 10 years. Do the tenants not in fact pay more than 100 per cent, because the increase goes into the base of your rent, on which guidelines are added?

Mr. Melling: That is correct.

Mr. Reville: You are being generous in the 100 per cent.

Mr. Melling: I think so.

Mr. Reville: Okay.

Mr. Cordiano: I will ask the ministry to comment on some of the remarks that were made and perhaps to try to clarify a couple of points for me. With respect to costs no longer borne, we have identified the fact that some of these capital costs would be amortized over a period of time. What would that period of time be?

19:40

Mr. Church: The periods of amortization under the present Residential Tenancies Act vary quite substantially with the nature of the investment. Generally, their purpose is to be amortized over the probable life of the asset; for example, a well-pitched roof might be expected to last for 20 years and a refrigerator probably for 12 or 15 years. There is a very substantial schedule of amortization used by the commissioners. The Rent Review Advisory Committee examined that and ended up recommending to the government that, to a very large extent, we keep that principle of amortizing investments over the probable life of the investment and recognize that to the extent that a substantial proportion of the asset may continue beyond the life of the investment, the landlord should not be allowed to pass through cost without reinvestment.

Mr. Cordiano: Of course, when you are amortizing, you are also talking about depreciation factors. Mr. Reville alluded to the fact that some of the costs that might be incurred would be recouped through rents--

Mr. Reville: More than 100 per cent.

Mr. Cordiano: Fine. I am saying you have to allow for depreciation in there somewhere.

Mr. Church: That was the argument used by the landlord side of the committee, but ultimately, in the negotiating process, they--

Mr. Cordiano: (Inaudible) go for a negotiated settlement, but I am saying does the 80 per cent figure--I just wanted to clarify, if you are laying out a certain amount of capital to make improvements, or whatever the case may be, you do have a depreciating factor there which ultimately affects the life of the assets, and to be fair you have to look at both sides.

Mr. Reville: I think you should be fair, Mr. Cordiano, because the tenants have paid for all the asset and then some, so the depreciation is figured in.

Mr. Cordiano: When you make improvements or renovations, obviously you have to consider that there is a depreciating factor. I think the 80 per cent is some sort of a negotiated settlement, arriving at a figure, or would you include depreciation? You are also including the fact that tenants are paying for that asset over an extended period of time, but at the end of that time you have a depreciated asset that is no longer worth what it was worth at the beginning of its lifetime. You have to include that in the factoring of the cost. It is simply a depreciating allowance.

Mr.-Chairman: Does anyone have anything further for Mr. Church?

Mr. Church: I have a clarification of my answer. Perhaps the factor that contributes most to the effect that is being mentioned is that in many instances the landlord is required to pay back the loan for the asset in two or three years, but he gets the rent back on an amortized period of 10 or 12 years.

There was considerable discussion by the Rent Review Advisory Committee to accelerate amortization in cases where the landlord on a bona fide basis could not get financing for the full life of the asset. That was considered to be impractical, essentially because it is subsidizing poor-risk landlords, but that is a major factor leading to this depreciation consideration.

Mr. Cordiano: I never brought that up, the interest factor as well. The reason I bring this up, Mr. Reville, and following on that, is that I see in your brief, sir, you recommend that improvements and renovations be amortized over an extended period of time.

I just want to reflect the fact that if you are amortizing something over 10 or 15 years, that is an extended period of time. Here you say "preferably 20 to 25 years," but the ministry has pointed out that it depends on the actual improvement or renovation or the kind of asset you are talking about, which actually reflects the life of that asset. I think that was taken into consideration when coming up with this period of time over which the life of an asset would be amortized. Do you agree with that?

Mr. Melling: Yes, I understand that. We are calling for a longer period, obviously, of 20 to 25 years. The amortization to which Mr. Church is referring is probably amortization by standard accounting principles. In other words, they would try to estimate the life of the asset and perhaps attach an arbitrary figure of 15 years to a fridge, 10 years to the roof, and so on.

Mr. Cordiano: I do not think it is arbitrary. What you have mentioned are general accounting practices. You would have to use some standard that it is used widely, universally. That is the kind of standard

when looking at extended periods of time to amortize an asset. If you just looked at it and said, "Okay, how long does your car last?" any reasonable person might say five years at most, or six years, and then you are going to have to do a lot of repairs on it. So you take the average length of that asset and you come up with an estimate, give or take a year.

That is essentially what the committee did in trying to come up with the extended period of time over which you would amortize the asset. It is fair to say that was taken into consideration. Saying you should have an extended amortization period of 20 years is not going to reflect the true value of that asset. You have to be fair on both counts.

Mr. Chairman: Can I ask the members to tighten up a bit? The next presentation is scheduled for 7:30, and we have two other people to ask questions.

Mr. Cordiano: We were just getting warmed up.

Mr. Chairman: That is why I am giving my caution.

Mr. Pierce: Mr. Melling, could you tell me approximately how many people are in the Parkdale Tenants' Association?

Mr. Melling: It varies from time to time. We have roughly 300 or 400 members right now, and then we have approximately 20 to 25 affiliated tenants' associations, which have individual members. We are primarily an umbrella tenants' organization but we also have individual membership.

Mr. Pierce: Lower to middle income?

Mr. Melling: Yes, largely. That is more the function of being in the Parkdale community than anything.

Mr. Pierce: Let me tell you, as a member of the standing committee on resources development, we are led to believe that the rent review advisory committee, or RRAC, is made up equally of tenants and landlords. Each group is represented equally on both sides. The bill is the son or the daughter of that group through a process of negotiations by both sides. We are led to believe that although neither side is happy with the bill, they were prepared to accept it and were representative of whatever interested party they were representing.

The group from the landlord side said they were not happy. The group from the tenants' association said they were not happy, but they were prepared to present the bill and have it passed expediently so we can get on with the business.

What I hear from you tonight is that if the bill is passed, it is going to be torn up on Main Street and there will be rebellion among the tenants. Is that what you are saying?

Mr. Melling: I hope so.

[Applause]

Mr. Chairman: Mr. Pierce, would you stop being so inflammatory?

Mr. Pierce: I hope I have not been leading, but it requires



verification. Most of the members here, in some form or other, have been involved in negotiations. In order for negotiations to be a give-and-take process and in order to reach a settlement, both parties have to give to come to a conclusion.

I do not have any further questions. I think that has spoken well of the bill.

Interjections.

Mr. Chairman: Order, please.

Mr. Taylor: I have something arising out of the remarks. It introduced my concern. We have sat here now for a couple of days and heard something more than 20 different delegations.

Interjections.

Mr. Chairman: Excuse me, there is a meeting going on here. Will you keep your voices down?

Interjection: We were invited.

Mr. Chairman: If this continues we will have to close the door. I am sorry, but there are no more seats in here.

Interjection: You invited us to come.

Mr. Chairman: Yes, you are welcome here.

Interjection: It is a room, but where are you going to put us?

Mr. Chairman: I do not think there is any place to put you. We are reaching the end of this particular presentation anyway. Are there any seats up here at all?

Interjection: There are no seats left.

Mr. Chairman: Let us proceed. Mr. Melling, you were in the middle of an answer.

Mr. Taylor: No, I was in the middle of a question.

Mr. Melling: He was in the middle of a question. I did not quite get to provide the answer to Mr. Pierce's question.

Mr. Taylor: For the sake of continuity I will just repeat. We have sat here on the committee for a couple of days now and heard something more than 20 different presentations, by both landlords and by tenants. What is your communication with other tenants' associations? Do you think there are others who have the same feeling about this legislation as your association has? The message I am getting from the tenants is that they do not want the bill. I am getting answers from the landlords that they do not want the bill, that it is not going to help them and that it is not going to increase housing.

19:50

The minister tells you, at least in my understanding, that this is

nirvana, this is the open sesame to Utopia. If it does not help the landlords and it does not help the tenants, what are we bothering with this thing for? Is there not a consensus? Maybe the minister can tell me what the consensus arises out of, because it certainly has not arisen out of any landlord or tenant representations to this committee so far.

Hon. Mr. Curling: The process that was in place, as Mike has said, was representative of nine landlords and nine tenants. Of course, it would not have been practical to bring all tenants and all landlords into the room. Even representations are not done in that way.

The process now is to go to a public hearing to listen again to others who may want to put in their little, or huge, piece. Members of the committee have heard extreme cases to the so-called right and extreme cases to the left. We have also heard cases that for years did not even have the idea of coming together to deal with the problem. That had never been done. This is what we are doing: addressing the problem. The compromise that has come about is that now we are together, we have identified the problems, we have set the plateau and we will move forward.

I have indicated over and over, and some may not want to listen or to hear, that rent control or rent review is a permanent structure of this government. As a matter of fact, it was indicated that we have legislation for rent control and we come back with legislation from time to time to seek eight per cent, six per cent or four per cent.

What we have is a structure that is flexible according to inflation, telling the province it is a permanent structure. We are not saying that what we have here is Utopia. We have said we will reach a compromise in both cases. We are saying it is a difficult issue, we will come together to discuss it and we will put a bill in place so we can move towards addressing all the concerns.

Mr. Taylor: It is premature, with respect, to draw conclusions at this early stage of the hearings, but so far nobody wants it. If that is the way it is going to turn out, you might as well scrap it.

Mr. Chairman: Mr. Taylor, do you have any questions for Mr. Melling?

Mr. Taylor: I want to get a better feel for whether you communicate with the other tenants' associations and tenants, to see whether what you are saying is representative of tenants in general. As I say, with the bill, the operation might have been successful, but the patient died. Can you tell me what communications you have had, so I can get a better feel for whether you are representing just a very small group of people who are not representative of tenants as a whole?

Mr. Melling: With pleasure, Mr. Taylor. Our association is a member of the Federation of Metro Tenants' Associations, which I believe will be up a little later this evening. You will find we agree on many things. They, in turn, are in contact with many individual and umbrella tenants' organizations throughout Metropolitan Toronto. In addition, both organizations, the Parkdale Tenants' Association and the FMIA, are in contact with the tenants' umbrella group, which is a group that represents tenants, community legal workers and other people who are involved in tenants' affairs.

Thus, the network is fairly well established, and I would not be sitting here saying some of the things I am saying and writing you a 20-page brief if I did not believe the tenants were behind me. As you can see, the tenants are behind me.

Mr. Chairman: Before I move to Mr. Cordiano, members of the committee, we must cut off this presentation by eight o'clock or it will be unfair to the groups that are to follow and that have been scheduled for this evening.

Mr. Cordiano: I want to comment on the fact, which was alluded to by Mr. Taylor, that we should not at this time be coming to any conclusions. It is far too early. We have had only one day of hearings and we have heard presentations on both sides of the issue. We have heard presentations that said it is a good first step towards having some kind of compromise between landlords and tenants on the road to a less adversarial process. In the past 10 years, you had to fight with your landlord, and that is the kind of thing we are trying to get away from.

What I understand from your brief is that you want that adversarial approach to continue. You say on page 4 with regard to the initial hearing:

"It gives tenants the opportunity to 'face off' with their landlords and to air grievances publicly. It is the equivalent of their day in court where justice can be seen to be done. It is our view that an administrative review at first instance will fail to inspire the confidence of tenants in the fairness of the rent review process."

I think you are questioning the fairness of that administrative process, the initial step that Bill 51 proposes. You are also inferring from this, and I am inferring from it, that you would like to see the adversarial approach continue, with both sides facing off, to use your words.

Mr. Melling: The unfortunate fact is that, at least within my lifetime and certainly within yours, tenants and landlords are going to be facing off because they have opposed interests. Under the scheme I am proposing for more public housing, that is not true. In co-operative housing projects, that is also not true. However, when we are talking about one person renting living accommodation to another person for money, you have an adversarial interest set up whether you want one or not.

People are for ever talking about taking the adversarial approach out of the court system, but that is unrealistic as well. In some cases, negotiation works well; in other cases, it does not. If tenants send all their documents to some bureaucrat and get them back with a stamp indicating a 15.2 per cent rent increase, they are not going to feel they have had their day in court.

Mr. Cordiano: You are assuming that is going to happen and I am asking you to assume that is not going to happen, to assume that it is an administrative process.

Interjections.

Mr. Cordiano: Wait a minute. We go before courts and we go before judges and I think we all have belief in our judicial system, but we have all--

Interjections.

Mr. Cordiano: I have taken people through the rent review process, and we have won some very big victories in my riding. I have some confidence in the administrative process.

Interjection: Yes, 17 per cent or 15 per cent.



Mr. Cordiano: No, it was far below--

Mr. Chairman: Order. The remarks are through the chair to the witness. Otherwise, you are going to get yourself in trouble.

Mr. Cordiano: I apologize. Getting back to this, I think what we are attempting to do in this bill is to get away from the adversarial initial stages, which seemed to be predominant prior to this bill and which will continue to be predominant until this bill is passed. That would relieve a lot of the nightmare of the bureaucracy one faces before going to rent review. I have done it in my riding and I have done it for many tenants' groups. It is a very difficult process and in many ways is very cumbersome.

Mr. Melling: Mr. Cordiano, perhaps the only reason we disagree is that you are an optimist and I am a pessimist.

Mr. Cordiano: I am an optimist because I have seen that you can have some faith in the administrative process of this government. That is why I am an optimist.

Mr. Chairman: Mr. Melling, on behalf of the committee, I thank you for appearing this evening and for bringing members of your association with you. They have added a great deal of energy, if not electricity, to the proceedings, and we appreciate that.

20:00

Mr. Melling: You are welcome.

Interjections.

Mr. Chairman: Order.

Mr. Reville: On a point of order, Mr. Chairman: If it should happen that the people who are here now want to stay for the rest of the hearings this evening, it seems to me we have a problem about room size. I am wondering whether we should consider a solution to that. I do not know whether everybody wants to stay and listen to what is happening. I address that to you, Mr. Chairman, so that you can deal with the problem. Clearly, it is not satisfactory the way it is.

Mr. Chairman: Part of the problem is the construction around this place, which restricts the number of rooms. Another problem is the location of the Hansard service which records the proceedings. It is a very difficult situation. We have not encountered this problem before. It is the first time we have had any kind of problem.

Interjection: Yes, we have. I was here.

Mr. Chairman: Not in this committee, not on this bill.

Interjection: I was in the same room.

Mr. Chairman: All right. I do not see much of a solution to the problem. We are going to have to struggle with it this evening.

Interjection.

Mr. Chairman: Order, please. If we can squeeze any more chairs in, we will do so, but there are limits to that as well.

The next presentation is from Audrich Properties Inc. Is Richard Harnden here? Mr. Harnden, welcome to the committee. Have a seat and make yourself comfortable. Could we stall for a minute? There are a number of people moving about and leaving. Now there are some empty seats in the room. Anyone who wants a seat can probably find one. Has everyone who wants a seat found one? We are trying to get a few more chairs squeezed in to resolve the problem.

May I direct a word to the people in the room this evening? There is a long-standing tradition around the Legislature, in both the chamber itself and the committee rooms such as this, that when people are making a presentation, whether it is a witness or a member who is speaking, they are not interrupted and there is no heckling, booing or hissing. If everybody in the room had been opposed to Mr. Melling when he was making his presentation, I would have been obliged to protect him from any booing, heckling, hissing or interrupting. That has to apply to everyone. I ask you to honour the long-standing tradition here that everyone has the right to free speech without interruption.

Mr. Harnden, we look forward to your presentation.

#### AUDRICH PROPERTIES INC.

Mr. Harnden: Thank you. First, I would like to say that I do not envy this committee, which I believe would wish for the wisdom of Solomon, who, as you know, was required to make a judgement in terms of cutting a child in two. This is just about the situation you have right now.

I am an independent business owner, the owner of a 44-unit rental apartment complex. I purchased the pre-1976 rental property five years ago, in 1981. Having never owned multiple residential property before, I quickly became shocked and disillusioned by the extraordinary rent control legislation, which to me is draconic, particularly when the subsequent legislation over the past three years was added as a further undemocratic, unjust burden to the long-suffering owner. I do not like the term "landlord," because I was never knighted nor given a lordship by the Queen. I prefer to say "owner."

I was furthermore to become grieved by the behaviour of some tenants--fortunately, not all; there are many good tenants--who seem to think they can plug toilets, damage apartments, allow animals to defecate on and ruin rugs, etc., and leave no address, rent owing, derelict sofas that cost money to remove and total scorn for the landlord or owner who is "rich" enough to own the property.

Having been innocently initiated into this extraordinary state of affairs, I have to ask who would be fool enough to own a pre-1976 rental property under a rent control act that does not allow any return on investment, just a "break even against expenses" position--after the fact, if you please; i.e., one must apply for partial recovery by going to rent review after having made the loss.

Would the committee members before me, or the minister, invest a penny of their savings in a pre-1976 rental property today? I think not. Let me give you my property as an example--and I am being very frank; I am giving you personal information here.

In November 1981, I purchased the 44 units for a total sum of \$645,764, which works out at \$14,676 per unit--try building anything like that today--with a cash down payment of \$180,000. I have since tried to unburden myself many times and have finally received my first signed offer. Here is a copy. This offer, which I received three weeks ago, was for \$650,000, with a \$50,000 cash down payment. That is a price increase of \$4,236 over five years, or just more than half of one per cent. That is a joke, is it not? Unfortunately, the joke is on me.

Over those five years, I have had to sink in another \$80,000 in expenses, been to rent review twice and still accumulated a net loss, excluding depreciation, of \$31,569 up to January 1, 1986. My financial statements show that. That is four and a half years later.

During those five years, we have received no return on investment, no pay for administering the property, including keeping the accounts. I had to invest my \$180,000 plus a further \$80,000, for a total of \$260,000. If I had put that into the bank, think of how much interest I would have received and how much extra tax I would have paid to both levels of government. Please remember that.

This is nothing short of ridiculous and is not untypical of many similar situations with many other owners. How do you, as members of the Legislature, have the conscience to perpetuate this robbery against me, a citizen of Canada?

20:10

I wrote to David Peterson, offering him my property at cost. He did not take up my offer or acknowledge it. However, he did say to me in his letter of September 5, 1985: "I can assure you that the government recognizes the importance of ensuring that rental owners have an opportunity to earn a reasonable return on their investment."

Ha, ha! I see nothing in this bill that will do that for pre-1976 building owners. I submit that pre-1976 building owners must be allowed a reasonable return on investment--now; not in the future, if at all. I should be able to go to rent review under this bill and get the rents to the level that will cover all costs and allow a return of not less than 10 per cent on my money in 1985 and 1986, backdated in the same way as you have backdated the enforced reduction from six per cent to four per cent to August 1, 1985, for tenants.

We should not have one law for tenants and one law for owners or landlords, should we? Not if we want to be fair and honest. The present form of Bill 51 is not quite as draconic as it was when originally drafted. That I am grateful for. But I have to say that the facts speak for themselves; it needs redrafting to allow a proper and fair return on investment for pre-1976 buildings.

Why are you so afraid to remove rent controls? I know this is heresy. It is like I could be burned at the stake for this. They are not needed in the commercial sector since free-market forces ensure adequate supply over the long run and a fair deal for renters and owners alike. The rental housing shortage is directly attributable to rent controls. You know it, but as politicians most of you do not have the intestinal fortitude to admit it and act upon it. A former minister of the government did admit personally that it was not necessary. I will not name him, because I would embarrass him.



Ms. E. J. Smith: You do not have to.

Mr. Reville: Is that why he is a former minister?

Mr. Harnden: Probably, but he admitted it personally. He said it would be folly for the politicians to proceed with it. One of these days the taxpayers of this province will find you out, because that is where the buck stops.

In Britain, they are selling public municipal housing at 50 per cent off real value, just to get out from under the heavy burden of maintaining subsidized housing. That information came from the Daily Telegraph when I was over there earlier this year, in June.

I would like now to address briefly the following additional issues in Bill 51:

1. Bill 51 places the responsibility and burden of affordable housing on the building owner, not on the government where it belongs. By the way, for "government" please read "taxpayer." The government has no money of its own; it is all tax money. I recommend that the bill be amended to provide for housing allowances or income supplements for those unable to afford adequate housing for reasons beyond their control. Public housing is not the solution, but by far the most wasteful method of dispensing taxpayers' money. In Britain, only half the cost of public housing is recovered in rents, and maintenance costs are in addition to this. Call the plumber, and the government pays.

2. The residential complex cost index formula has a problem in the three-year moving average. In times of high inflation, the landlord falls behind. When inflation drops, the government is tempted to meddle again. Such a scenario has been our experience of the past seven or eight years, when we have been getting legal six per cent increases in the face of 10 or 12 per cent inflation. All that was conveniently forgotten when four per cent inflation was reached.

3. Honest mistakes are not permitted for the landlord. This is a minor point, but I would like to make it. My superintendent signed leases to tenants that went beyond the legal anniversary dates. According to the present bill, I would have to accept the new and later anniversary date in future and accept a permanent loss of income as a result. Provision must be made to secure the legal anniversary date and to revert to it in the case of an honest mistake once the lease comes up for renewal.

To sum up, let us put fairness into this bill. Better still, let us put in a sunset clause that will phase out rent controls within five years, just long enough to get the rental housing industry into gear and competition again. I am serious. Put a sunset clause into this bill and watch the rental housing spring up, just as the single-family dwellings are springing up all over Ontario under the impetus of free enterprise. You cannot deny that; that is happening before your very eyes. There are no controls over building under the normal Housing and Urban Development Association of Canada conditions, and free enterprise is building houses like crazy, thank God for that.

Fortunately, I am not dependent on income from the rental property, but many owners of similar small rental units are. I feel sorry for them. Do you not? After all, as equal Canadian citizens, what did they do to deserve such unequal treatment? They saved their money to invest in a retirement nest egg.

They were good; they saved their money. They could have spent it; they saved it. Perhaps they were a little fortunate. What chance have they to make a return on their hard-earned money under this act?

To close, it reminds me of the fable of the squirrel and the grasshopper. That fable was put into a cartoon which ran probably long before some of you can remember. It was around the time of the Second World War. In that fable the grasshopper sang the song, "The world owes me a living," and he fiddled away and everything else. The squirrel, on the other hand, was putting away the nuts, because he knew winter was coming and he would have to hibernate. However, when winter arrived and the snow blew, the grasshopper pleaded with the squirrel to help him, to give him some nuts, because he had been fiddling away and laughing all the way around. Sometimes I think our government today, whatever its political stripes, is too intent on looking after the grasshopper instead of acknowledging the work of the squirrel.

I will say one further thing. This statement is not directed at the unfortunate people who do not have adequate income for reasons that are no fault of their own. I fully sympathize with those people, and they should be fully supported by the government. After all, if we were all grasshoppers, there would be nothing to share anyway.

I ask you, where would government be without the honest and long-suffering taxpayer? I think that includes practically all of us. I thank you for your attention.

Mr. Chairman: Thank you, Mr. Harnden.

Interjection: Is there going to be a rebuttal of this?

Mr. Chairman: I was about to call upon members to ask if they had any questions. If you will be patient, we will see. Are there any questions of Mr. Harnden?

Mr. Reville: Thank you for making your presentation. I think you did it bravely, given that you knew there were many tenants behind you.

My dad told me about the grasshopper, and I think it was an ant.

Mr. Harnden: It is similar.

Mr. Reville: The ant was busy. Obviously, as a child, I was a grasshopper, and he wanted me to become an ant.

I must tell you that one of the reasons tenants have trouble getting along with landlords is because of fables about grasshoppers and squirrels. You said you did not think that people who need help should not get it, but I think you implied that tenants do not save their money.

Mr. Harnden: I never implied that. I would be unfair even to suggest that.

Mr. Reville: That is what it sounded like to me.

Mr. Harnden: I think that is a very socialist statement, and you are very--

Mr. Reville: That is great. Thank you very much; I am not a socialist. By the way, I have been to Czechoslovakia three times.

I assume you bought this property in 1981 because you thought it would be a good business to be in.

Mr. Harnden: I believed it was, but I obviously proved myself to be ignorant.

Mr. Reville: And you believe in free enterprise?

Mr. Harnden: I certainly do.

Mr. Reville: So this turned out to be one of the business decisions a free enterpriser might make that did not turn out too well?

20:20

Mr. Harnden: I would say that under a free market system, I would take my chances.

Mr. Reville: But you know there is no free market system.

Mr. Harnden: As you heard in my presentation, I was not aware of the act or its implications. I should have been. Now that I know, I am showing you an exact example of what happens. If you, as a socialist, can justify the position I am in, please try to do so, would you?

Mr. Reville: I would certainly not try to do so under your ground rules. In a free enterprise system, you take your chances. If you are lucky, you make a lot of money; if you are not lucky, you do not. That is what free enterprise is about.

Mr. Harnden: Yes, but not with the kinds of laws you bring in.

Mr. Reville: You said that you would be prepared to offer your building at cost to Mr. Peterson and that he declined to pick it up.

Mr. Harnden: He did.

Mr. Reville: I do not know what the cost is. You put in \$260,000.

Mr. Harnden: I gave the cost; it was approximately \$640,000.

Mr. Reville: Have you offered the building to the tenants, so that they might buy it as a co-op?

[Applause]

Mr. Chairman: Order, please.

Mr. Harnden: That is an unreasonable question, because I am not permitted to do so under the present law.

Mr. Reville: Yes, you are, as a nonprofit co-op.

Mr. Harnden: I am? I will be very happy to offer it to the tenants. The problem is that these are one-bedroom and bachelor apartments. Very few of the tenants stay there long enough to wish to purchase. I would say that, at the most, 15 per cent of the tenants might be at all interested in purchasing.



Mr. Reville: If it is of any help to you, I suggest you get in touch with the co-op federation, one of the nonprofit organizations--

Mr. Harnden: I already have been.

Mr. Reville: --the city of Toronto, the Ontario Housing Corp., or somebody, because they might be able to help you out.

Mr. Harnden: They can do nothing for me. I have been in touch. I was in touch with the people two years ago.

Mr. Reville: It sounds like a really good bargain to me at \$650,000. That is about \$16,000 or \$17,000 a unit.

Mr. Harnden: It is \$14,500 a unit.

Mr. Reville: I cannot believe somebody would not pick it up and rent it as a nonprofit property at that price.

Mr. Pierce: You have obviously read Bill 51, Mr. Harnden.

Mr. Harnden: Yes.

Mr. Pierce: The word we are getting here on the committee is that Bill 51 gives the landlord an opportunity to become very rich in a short time on the backs of the tenants. We have heard it in different presentations.

Mr. Harnden: It does not appear that way to me.

Mr. Pierce: Can you tell me why you have not read that same kind of impact into the bill?

Mr. Harnden: I do not see it here at all.

Mr. Pierce: We have listened to different groups, on different days, that have said this is a bill drafted for the landlords. They are going to make a lot of money, and the tenants are going to be out on the streets.

Mr. Harnden: That is the extreme viewpoint, certainly.

Mr. Pierce: You do not, however, see any reason to stay in the business as a landlord, or owner, as a result of the drafting of Bill 51?

Mr. Harnden: No, sir. I want to get out of it--and quickly.

Mr. Pierce: I have taken it for granted that you would like to get out rather quickly. In fact, I hear you are even offering it for sale to some people. Do you have an adversarial position with your tenant group?

Mr. Harnden: No, we do not. I did mention that some of our tenants behaved very badly. I would say we have an average of two evictions a month. These people are making too much noise, not paying their rent and various other things like that. This is quite a problem.

Mr. Pierce: Is that because of the type of clientele your building attracts?

Mr. Harnden: Yes, it is partly that and partly because they are one-bedroom and bachelor apartments.

Mr. Pierce: They are not what you would normally call family accommodations?

Mr. Harnden: No. We have some retired people who are fine tenants. There is no problem with them at all. It is this turnover, however, which is something like 50 per cent per annum.

Mr. Pierce: Are you in the high-, middle- or low-income rental area?

Mr. Harnden: We would be in the lower-income area--not low, but lower. The building is not in this city, by the way.

Mr. Pierce: It is not in Metropolitan Toronto?

Mr. Harnden: No. Most people here are probably from Toronto. This happens to be in London. The rent for a one-bedroom apartment is currently \$286 a month. For a bachelor it is \$237 a month. We have been to rent review twice during the past five years.

Ms. E.-J.-Smith: Mr. Harnden, you are from my home community and, as you say, we mostly do have Torontonians here. You mentioned the former minister, who spoke so well. I remind you that the former minister, whom I ran against, ran on a four per cent increase. I try to keep it as nonpartisan as possible, but you raised that point and I remind you of that.

I recognize your problem, which you have expressed very well, but it seems to me you have also rejected most of the possible solutions, for good reasons or bad. You do not accept public housing.

Mr. Harnden: It would be futile to accept public housing as it is set up, because it is a proven fact that the cost of running it is far in excess of that of any other system that might be available. There are ways of subsidizing housing that are far better than pure publicly owned housing.

Ms. E. J. Smith: I agree with that. Probably in Toronto, but we know certainly in London, we built the public housing for families too big, which was bad socially for them.

I recognize that our bill is not great if you are looking at perfection. Look instead at what you now have as a situation, which is exactly what you got caught in, for reasons you have said yourself. You bought in 1981 after rent control came in, and you are now stuck with a situation you had not looked into, which is a real problem to you.

Recognizing this, would you agree that this bill presents a better position for anyone from here on in who looks to invest, which is part of what our balanced committee was trying to look at? The committee was trying to look for solutions in the long run and for something that might attract someone in the future.

Mr. Harnden: The bill as it stands at present is certainly an improvement. On the other hand, I have to go back to what I said in my case. I have been in the hands of real estate agents and so on and have just received the very first and only offer, which indicates that what you are saying is not the case unless nobody is reading the bill.

Ms. E. J. Smith: I am talking about going ahead. I am not talking about now.

Mr. Harnden: I know, but the bill has been published, and any potential buyer can read it and see what the potential is.

Ms. E. J. Smith: It has not been passed.

Mr. Harnden: I told you what the offer was: within \$4,000 of what it was five years ago.

Ms. E. J. Smith: No, but the bill is not passed. We all recognize, at least I certainly recognize, that venture capital is not coming into the rental market at this point, but the bill is not passed. We are trying to look ahead to a more attractive rental market venture in order to change this.

Mr. Harnden: I hope you are right on that.

Ms. E. J. Smith: This is exactly and all that we are trying to say in the bill, that we hope maybe we are right.

Mr. Harnden: I do not think the bill is the final answer. It is a step in that direction perhaps, is it not?

Ms. E. J. Smith: Yes. I wondered whether you had recognized it as that.

Mr. Harnden: Yes.

Interjection: Mr. Chairman, do you have any other briefs to be presented?

Mr. Chairman: We are still dealing with Mr. Harnden, please. Are there any other questions for Mr. Harnden? If not, thank you, Mr. Harnden, for your presentation to the committee. We appreciate it.

There are two more presentations to the committee this evening. One is by Martin Jelinowicz. I hope I am pronouncing that correctly. Is that a good enough pronunciation?

Mr. Jelinowicz: Almost.

Mr. Chairman: Almost? My name gets mixed up too. Would you have a seat at the table, Mr. Jelinowicz?

Interjection: Whom is he representing?

Mr. Jelinowicz: The bad guys.

Mr. Chairman: Just be patient. I think we will learn that.

20:30

#### MARTIN JELINOWICZ

Mr. Jelinowicz: My name is Martin Jelinowicz. It sounds almost like Smith. I own and look after a 17-plex in Cambridge, Ontario. I am a member of the Fair Rental Policy Organization of Ontario, the Multiple Dwelling Standards Association and the Waterloo apartment managers association.

I believe a policy should be developed that is fair to both tenants and



landlords. I do not believe that tenants and owners must be enemies. I do not believe in class warfare as advocated by some tenants' associations.

Owners provide simply a service, just like barbers, storekeepers, tradesmen, etc. Just because your barber cuts your hair, is he your enemy? He does a service. Do you expect him to do it for free? No. You know he makes a living from that. In spite of that, he does not have to be your enemy. If he is, why do you go to him to have your hair cut?

I do not dismiss a tenant's claim only because it has been made by a tenant. I will not support an unfair landlord but, on the other hand, I cannot accept the premise that every claim made by tenants is justified only because it has been made by tenants.

Bill 51 definitely contains some positive ideas, such as tying rent increases to inflation. It makes the whole rent review process less adversarial. I believe the Honourable Alvin Curling should be commended for his very difficult job and for setting up the historic landlord-tenant committee. He definitely deserves a lot of credit for that.

However, Bill 51 does not recognize the following points:

1. Small and medium apartment owners must operate on a cash flow basis, not on long-term amortizations. If they had enough money to operate on amortizations, they would not be in the business of running small apartment buildings in the first place.

2. A reasonable allowance and some return on initial investment for pre-1975 buildings, at least in perspective, must be made in order to maintain the building after, say, five years of ownership. These are specific points.

In addition, Bill 51 does not attempt to cure the causes of rising rents: that is, the rising costs that are beyond the control of the owner. If the government were truly interested in keeping the rents modest, it would restrain those who are responsible for the high rents. These are municipalities, public utilities and school boards.

Let us consider a typical example, a small apartment building of 15 to 20 units with a total rental revenue of \$60,000 per year and \$26,500 in operational expenses--that is, \$13,000 for municipal taxes, about \$12,000 for utilities and \$1,500 for garbage collection and insurance. This leaves about \$15,000 for mortgage payments per unit, if you consider it as an average 17-plex.

At this point, the building may qualify for 5.8 per cent of operational allowance, which would amount in our example to about \$1,800 a year or, on a suite basis, about \$9 per month per suite. I should remind the audience that people in condominiums pay about \$100 per month to maintain their units, and they have paid for everything already. They pay taxes on top of that.

Can we expect someone to perform a part-time or full-time job of looking after the building, cleaning the building, collecting the rents, providing the cleaning supplies, cleaning the plugged toilet bowls, etc., for \$1,800 a year? Some tenants might say, "That is a great deal and we go for it," to which I say that all the governments of the world together with the Federation of Metro Tenants' Associations can legislate that cars should run on water, but they will not run on water.

It is the same with apartment buildings. Unless the owner can within a reasonable period--say, within five years of ownership--expect a positive cash flow, the building will not be looked after. Some might say: "That is your business decision. You cannot expect the government to guarantee you a positive cash flow right away." I agree. I do not ask for any guarantees. However, I will not be able to provide and nobody will be able to provide such services for 15 or 20 years for \$1,800. That is gouging.

Let us now pay attention to the real cause of rising rents, which is taxation. It seems strange to me that such elaborate rules have been invented to decide whether rents should rise by four per cent or 5.19 per cent when municipal taxation together with other forms of taxation represents 40 per cent of the rent. So what is the sense?

As an example, on rental income of \$60,000 from a typical 17-plex, municipal taxes are about \$13,000, utilities are about \$12,000 to \$13,000, of which three quarters are taxes, so \$13,000 plus \$9,750 is about \$23,000. If we allow something for vacancy or skipping the rent, the above sum that is paid directly to the government represents about 40 per cent of the rental income.

I have to ask again, why do we need legislation that worries about four per cent or some little piddling amount such as five per cent when 40 per cent is totally ignored? When will the politicians stop this game of forcing the owner to charge high rents, then wait around the corner until the owner brings the money, at the same time posing as protectors of poor and oppressed tenants?

It might be interesting to mention at this point whether the proposed federal tax system will result in a surcharge on rents. Will rents rise by guideline plus seven or eight per cent or by guideline only? Tax on services was mentioned. Will another seven or eight per cent be extracted from the owners?

The municipal tax load as well as the utility rates are too high. Instead of jacking up the rents, I propose lowering municipal taxation as well as the utilities. There is good justification for it. Let us consider 0.8 acres of land, which could accommodate two single-family homes. In that case, the city would receive about \$3,000 in taxes.

However, should a small apartment building be situated on the same lot, a 15- or 17-plex, the city would earn \$13,000 per year. In addition, the city has to make only one water connection and one sewer connection. Only one tax bill is issued and always paid. It is the same with utilities. Only one electric meter, one gas meter and one water meter instead of 17 meters have to be made, and only one bill is issued. It is the same thing with the mortgage company. Instead of issuing a bill to 17 people and sometimes not getting paid, it is always paid, with one bill.

When a bailiff does the collection, he adds 10 per cent for collecting; yet owners do it free. As with any other services, every attempt must be made to provide these services economically.

20:40

In summary, Bill 51 contains very reasonable features. I commend the Honourable Alvin Curling for his very difficult job. However, the bill is somehow inadequate in treating the allowance for operating expenses for smaller buildings. It may work with big buildings, but I do not think anyone will manage a building for \$1,800 a year.

Second, the bill does not really treat the high costs of rents, which are due to municipal taxation and utility rates. Those are the main things. Unless apartment buildings receive more favourable treatment, we may very shortly end up with perfectly controlled and registered ruins.

If I may, I have a few peripheral issues that are related to housing but not necessarily to Bill 51. It has been said many times that housing is a right, to which I say, "It definitely is not." If this is a right, then someone else has the duty to provide it. For example, does Mr. Reville have a duty to provide me with housing, or do I have a duty to provide Mr. Reville with housing?

If we accept the premise that housing is a right, who is going to decide that I must provide housing for you or that you have to provide housing for me? How would we face the people who provide for themselves, who pay for their own homes and, in addition, have to pay for homes for someone else? Why? Is a carpet a basic right? Is a fridge a basic right? Are light bulbs or chandeliers basic rights? Where is the boundary? If food, housing, medical care and education are basic rights, it means they must be provided. Why should people work? These services and goods must be provided anyway, since they are rights. Should people work for booze and cigarettes only?

Second, the private industry cannot provide affordable housing. It has been said today, "Build luxury units only," to which I say that, traditionally, new apartments were more expensive to live in. However, as the mortgages were being paid off and costs expired, etc., while operating costs remained reasonable a few years ago, the owners could afford to charge lower rents, just as those who cannot buy new cars buy second-hand ones. Since the supply chain has been broken, it will take another 15 or 20 years before today's buildings become affordable.

I do not like the term "affordable," because what is affordable for Michele Landsberg, for example, is not affordable for me. What is affordable? Is it \$450 per month, \$500 per month, \$300 per month?

The last thing I have to say refers to the statement, "If we eliminate profits, housing will become affordable." I am referring to a statement from the tenants' bulletin of summer 1986 published by the Federation of Metro Tenants' Associations in the article by Comrade Norman Broody on page 5. First, the present laws do not allow profits anyway. To keep the rents at moderate levels, the costs must be kept at a minimum.

I can demonstrate that the private sector can provide housing far more efficiently than the state. I will give you an example. My building had a somewhat weathered roof, having been constructed in 1967. I had a choice of having the roof replaced by a roofing company at a cost of \$25,000 to \$30,000 or I could do a process called rejuvenation. I did this by myself at a cost of \$3,000, one tenth of the cost. New flat roofs or built-up roofs are guaranteed for only two years, with flashing guaranteed for one year. It probably will last eight to 10 years. The rejuvenation will extend the life of the roof by maybe another seven years. The saving is 10 times, but the big question is who should benefit from that saving. I did the work. I spent about eight weeks on the roof. Would you expect if housing were in state hands that some bureaucrat would go on the roof and spend six to eight weeks working on it? I doubt it.

As another example, my building also required a new entry door. I had a quote for \$2,000 from a local aluminum and glass supply company. Instead, I purchased two nice aluminum doors for \$50 each. However, I spent one whole



week working at it. Would you expect if housing were in state hands that some government bureaucrat would go to the scrapyard, spend six or eight days looking for the doors and installing them? I doubt it.

I would conclude my remarks by saying that survival and revival of private apartment industry is in the best interest of both tenants and owners, and government alone will not solve the housing problems. It can assist in low-cost housing but only to a limited degree. For example, it could purchase the licence either from Switzerland, Germany or Denmark for the production of panel construction. It is a big subject. I do not want to go into that. Panel construction is the most economical way of providing low-cost housing.

Finally, I would say that many socialists who pride themselves on being internationalists capable of transgressing the narrow boundaries of national states cannot transgress the boundaries of Ontario. In 1982, Sweden abolished rent controls after 40 years under a social democratic government. New Zealand has disposed of them under a social democratic government, and so did France. Controlling and regulating will not create one single unit. Nobody will build and be harrassed or crucified for it. Why should he do it? Neither will the intimidation by so-called tenant representatives create anything. Builders are not masochists, but given proper conditions, they can and will solve Ontario's housing needs.

Mr. Chairman: Thank you, Mr. Jelinowicz. I am sure members have some questions. I know Mr. Reville has one.

Mr. Reville: Yes. Thank you for coming from Cambridge, Mr. Jelinowicz. When I was a young grasshopper, I used to visit Cambridge, which was then Galt, Preston or Hespler. You could take your choice. I know where you come from. I know about flat roofs. I did a flat roof one Sunday in between rain storms. It was much cheaper than if I had had it done by someone else. However, it may be now leaking. I do not know.

You may be amazed to know that you and I agree on one subject at least, the fact that municipal taxation, at 34.3 per cent of your operating cost, is a huge ripoff of tenants because in the end they pay it.

Mr. Jelinowicz: I agree on more things.

Mr. Reville: The Minister of Revenue would do well to listen to what you have to say. I think the way municipalities finance themselves is outrageous because the tax is regressive and tenants get it worse than anybody else.

Mr. Jelinowicz: Twice.

20:50

Mr. Reville: Is it not wonderful how I work these things in, Mr. Chairman?

Mr. Chairman: I was noticing that, Mr. Reville.

Mr. Reville: Obviously, I found a number of your remarks somewhat inflammatory, and I guess you will know which ones those were. We will just leave those alone.

I think one of the things you are saying, which we we have heard from other small landlords like yourself, friends of Mr. Schwartz who have been before us, is that if you own only a few units, the bill may not do what you want. I have heard it said that the previous system did not afford the landlords the kind of return they should get. Is that your position?

Mr. Jelinowicz: Right. Unless the costs are almost expired, let us say about \$10,000 per unit, we cannot afford to look after them. That is what it is. Today's building costs about \$40,000 to \$60,000 per unit. Would it not make sense, as in any economy, to look at why the building costs are so high instead of trying to subsidize them? Why are they so high?

Mr. Reville: I think we know why the costs are so high. There is no secret about why the costs are high. It is also probably no secret why people's incomes are too low.

Mr. Jelinowicz: Bricklayers make about \$30 an hour. That is one of the reasons.

Mr. Reville: Yes. Do you think a bricklayer should not make \$30 an hour?

Mr. Jelinowicz: Not \$30, no. I do not think it should be legislated.

Mr. Reville: This argument becomes circular because we fundamentally disagree on this. Some landlords make a heck of a lot more than \$30 an hour.

Mr. Jelinowicz: No.

Mr. Reville: It appears that the small landlords do not make more than \$30 an hour, according to what has been presented to this committee. That may be because of a number of reasons. Maybe they do not have enough capital. Maybe they bought too high. Maybe they do not have enough time to manage. I do not know what the reasons are. Do you think small buildings should be taken out of this system?

Mr. Jelinowicz: No, but I do not believe that somebody should move in and I should be able to jack up his rent immediately. I believe that if we lowered the municipal taxation and utility rates to residential rates, for example, it would give the owners enough money to look after the building properly. You could very well live without guidelines.

Mr. Reville: That would be one way you could do it.

Mr. Jelinowicz: That is right.

Mr. Reville: If you reduced the taxation, tenants could pay the same rents and landlords could make a bit more money.

Mr. Jelinowicz: I believe, first, that every effort must be made to provide the service economically.

Mr. Reville: Yes.

Mr. Jelinowicz: What is the use of worrying about four or five per cent when you add 40 per cent on the top?

Mr. Reville: Yes.

Mr. Jelinowicz: That is all I have to say.

Mr. Reville: I suggest you bring that up with your local MPP. I think the more people talk about the way these fellows are financed, the sooner we are going to get a reasonable system.

Mr. Jelinowicz: I talked to one of the local politicians about it and I asked him why it is so high. It is basically twice the residential rate. I appreciated his honesty.

Mr. Reville: Because it is buried.

Mr. Jelinowicz: He said, "Because we need the money and we have the power to get it." That is the reason.

Mr. Reville: The province regulates how it is done. This is the right place to talk about it.

Mr. Jelinowicz: That is a good answer.

Mr. Reville: Mr. Epp, I did not see you.

Mr. Chairman: Do members of the committee have any other questions of Mr. Jelinowicz?

Ms. E. J. Smith: Very briefly, I assume you are aware that under the new act the Rent Review Hearings Board will recognize both the investment and the labour of the landlord in capital improvements.

Mr. Jelinowicz: Right, but it is for capital improvement. What I am talking about is that for the building not to end up as a ruin, it has to be looked after on a continuous basis. To say to someone, "If you do that, I will reward you in 15 years," or "Do this job, but you will be repaid in 15 years--"

Ms. E. J. Smith: That was a separate point. You made the point about the landlord doing his own work and how well he would do it.

Mr. Jelinowicz: That is right.

Ms. E. J. Smith: That is what I am suggesting.

Mr. Jelinowicz: To do that, you must have some cash flow. You have to eat and so on. You need expenses for yourself. That building must produce some cash flow. If he does not do it, the landlord has to ask a company to do it. Wait till next year and all this will result in high rents if he cannot do it himself.

Ms. E. J. Smith: Are you allowed to consider it as part of your capital equity for looking at increases?

Mr. Jelinowicz: Yes.

Ms. E. J. Smith: Do you think this is an improvement?

Mr. Jelinowicz: Yes, that bill is an improvement. There is no doubt.

Ms. E. J. Smith: Thank you.



Mr. Chairman: If there are no other questions, Mr. Jelinowicz, thank you very much for appearing before the committee. We appreciate it.

Mr. Jelinowicz: Thank you.

Mr. Chairman: There is one more group to hear from. I believe there are some empty seats now, are there not? There is nobody to give the word.

Mr. Reville: I will tell them. I know these people.

Mr. Chairman: The next presentation is by Ken Hale. Mr. Hale, would you have a seat and make yourself comfortable?

Mr. Hale: Thank you. Mr. Holt is here to help me out.

Mr. Chairman: Let us proceed. Mr. Hale, will you introduce the gentleman whom you brought with you this evening?

#### FEDERATION OF METRO TENANTS' ASSOCIATIONS

Mr. Hale: This is Peter Holt. He is a member of the executive of the Federation of Metro Tenants' Associations.

I am here on behalf of the Federation of Metro Tenants' Associations. I am chairman of the law reform committee of that group. We are a volunteer organization of more than 20,000 tenants and we are organized to protect the interests of tenants. As you can imagine, rent regulation is pretty fundamental to our members, to their perception of how things are and to their impression of how they are being treated by the government.

We believe that how this act is dealt with is going to determine whether the security of tenure that people have been promised is going to come to pass or whether they are going to continue to suffer the uncertainties of a situation where rents are inflating and their standard of living is declining. Unlike the previous speaker, we believe that decent housing that we can afford is a fundamental right and that it has to override maximum profit-taking in the kind of market we have in Ontario, which suffers from chronic shortages.

We think Bill 51 fails in fundamental ways to carry out the reforms that were promised by the members of this Legislature and reforms that are urgently needed to bring some order to the chaotic rental market that exists now. It reflects a policy that the wealthy should get wealthier and the poor should get poorer. It is going to create economic evictions and it is going to put an even greater burden on our already overloaded social services. It will discredit the landlords' attempts to bring more harmonious landlord-tenant relations to pass and damage the government's credibility in the eyes of the tenants. We do not believe the bill is going to result in fair rents, and there is nothing in it that will guarantee that any affordable housing will be built.

21:00

We do not have a choice, except to oppose a bill that will not end rent gouging, that forces tenants to continue to subsidize speculators, that rewards law-breaking landlords and that will not make landlords obey maintenance laws. We want to see a residential rent regulation act that expresses in concrete terms the concern for tenants that has been so eloquently expressed by members of this Legislature on so many occasions.

Although rent review is supposed to be one of the cornerstones of the government's housing policy, the system is in a shambles. It is acknowledged that the vast majority of landlords completely ignore the law and set whatever rents they please. Rent review orders grant rent increases at two or three times the rate of inflation, while tenants' homes fall apart. Tenants have recognized deficiencies in the system since it started, but the response, at least until now, has been to deny that there are any deficiencies, to delay any reform through a commission of inquiry and to tinker with finance costs and the guideline to try to create the illusion that something is happening when nothing is.

At last we have the opportunity to make changes in the legislation that will make the system work for tenants. There was an open consultation process that looked as though it was going to be a good starting point, but the time is over for trading off tenants' money to have the government fulfil the promises it made. Bill 51 is just a shell of these promises. All the issues are dealt with, but they are not dealt with in a way that has any substance. We have to oppose the bill because it takes money from tenants and gives it to landlords without any benefit to the tenants or to society as a whole.

The bill seems to have a philosophy that, province-wide, there should be a rent increase. To balance that off, there is a solution for keeping rents down, that is, make landlords obey the law. It is pretty simple and it is a good idea, but it appears that landlords do not face penalties as the rest of us do, but have to be rewarded if they are going to obey the law. In return for us having laws enforced, we are expected to pay more rent to those who broke the law so they will not want to break it any more. You see this in a number of provisions in the bill, but first in the setting of the guideline.

We have heard a lot about the guideline being complex and scientific, but we do not believe it is scientific or complex. Once all the weighting and averaging is over, the formula is very simple: pay the landlord for his cost increases, then pay two per cent of your rent more each year. Our impression is that the confusion that surrounds it only obscures how unfair it really is.

We think there should be a rent guideline, but set with the purpose of keeping down the number of rent review applications that deal with small amounts of money, so that the rent-setting body deals with serious issues and does not fiddle around with nickel-and-dime rent increases. If you create a formula that passes on average cost increases without having to go to a hearing, then that goal is accomplished. Adding two per cent on top of that for every tenant adds nothing.

A guideline formula should ensure that if costs do not go up, rents will not go up, and if costs go down, rents go down. Where cost increases above and beyond the average are experienced, for various reasons, other features of the cost pass-through system permit rent increases in an expeditious manner. We are concerned even with relatively modest rent increases. Statistics Canada's figures show there has been a large decline in constant dollars of tenant incomes.

Incomes of tenants in 1983 were more than 22 per cent lower than in 1971. There is nothing to indicate that this trend is reversing. To increase landlords' incomes at the expense of tenants whose incomes are declining is just a bad social policy. Where the increases result from something tangible, where tax increases go up or where services or materials go up, tenants can understand and accept that the cost of their housing must go up. But there is no justification to raise everyone's rent, and that is what Bill 51 proposes.

This philosophy shows up again in the chronically depressed rent section that permits extraordinary rent increases as a cure. We know these units as "affordable housing." The government is undermining its effort to preserve this housing with demolition control and conversion control. In allowing rents to increase dramatically in these housing units, it is undermining the security of tenure of low-income tenants, because they are the people who live in those buildings.

Once the determination is made that rents are chronically depressed, the tenants have two kinds of pressure. One, the rent starts going up at a compounded two per cent rate on top of everything else, such as the guideline bonus, maintenance costs for capital expenses and whatever else comes along. Second, there is a possibility of an immediate increase of 25 per cent or 30 per cent once the tenant vacates. Obviously, this is going to create pressure to push that tenant out and to put in a tenant who can pay the new nondepressed rent unless, of course, the tenant wants to sign the agreement that provides for an immediate 25 per cent or 30 per cent rent increase.

In general, there are two reasons these affordable rents exist. Sometimes the landlords have obeyed the law and have not raised the rent beyond the guideline for the past 10 years. Whether they did it through a sense of integrity or because the tenants were working to maintain it, we do not really know. The only reason these rents are depressed is that rents in the buildings around them are illegal.

The other major reason is that even if the landlord made applications to rent review, financing cost allowances are so generous at rent review that where buildings have not been flipped, the rents are a lot lower. Illegal rents and buildings being flipped do not seem to create any sensible policy justification for raising the rents of tenants in the lower-income buildings in which this has not happened, and these sections of the bill are completely unacceptable.

Both the guideline and chronically depressed rents mean millions of dollars go from tenants to landlords. How are tenants supposed to afford it? The answer seems to be to accept a declining standard of living. The official guideline has been mysteriously changed. Instead of it being 25 per cent of your income that should be spent on housing before you have an affordability problem, all of a sudden in the past year or so it has turned into 30 per cent. This solves the problem for one third of the people in this situation, but it does not do a thing for them. It only does something for the government's statistics.

Then there is the sale of buildings. We do not think the transfer of buildings between private landlords contributes anything to the welfare of tenants or to society in general. The transfers and the financial losses created by them have undermined the affordability of a lot of our rental stock and have made tenants think rent review is useless and does not work at all.

When the Cadillac-Fairview sales burst on the scene and threatened to really make a mockery of the system, temporary legislation was brought in to put a cap on how far the system could be abused. We expected something permanent was going to be done with this to curtail this incentive to flip buildings once and for all. Instead, the bill increases rents at a faster rate when a building is sold and increases the incentive to flip buildings.

Under the existing system, if the speculator sells a building to somebody else, rent review will push up the tenants' rents to cover the



mortgage payments for the new owner. The increase is not permitted all at once, but is brought in over a number of years, usually five. If this would still permit an unconscionable rent increase, the proportion of the rent increase due to financing is limited to five per cent.

Bill 51 eliminates the phasing-in of the rent increase, and the five per cent cap is the only limit. We use an example of where mortgage payments for the new owner are higher than the old mortgage payments by an amount equal to 10 per cent of the annual rents. Under Bill 51, instead of the rent going up two per cent per year for five years on top of everything else just for the financing costs, the rents will go up five per cent each year for two years on top of everything else. This does not serve tenants. It does not serve public policy. It is just a bad idea.

We in the federation have thought a lot about financing costs and what should be done about them. We believe the only way it is going to contribute to preserving affordable housing and discouraging building flips is to eliminate any consideration of financial loss arising from sales from the rent-setting calculation. Landlords who are running buildings now, before they sell them, manage to survive and feed their families. Somebody who purchases the building can probably do the same thing unless he or she pays a speculative price that is based on the anticipated rent increases from rent review. Bill 51 proposes that speculation be encouraged and the tenants pay for it, and we see that as a failure in respect of tenants' rights.

## 21:10

Then there is the rent registry. We characterize it as the sheep in wolf's clothing. It looks kind of scary but there is not too much that is scary about it. The Residential Tenancies Act was passed in 1979. It had a rent registry in it. At that time, everybody agreed that was an absolutely necessary part of a rent-regulation system.

Seven years later, the results of the failure to implement it at that time are obvious. Hundreds of thousands of tenants have moved and new rents were set at the landlord's whim. Thousands of tenants accepted illegal rent increases to keep the peace with their landlords, to get repairs done and to get ridiculous notices of termination withdrawn. Things have reached a point now where most rents are illegal and most landlords operate as though there was no regulation of rents at all.

The tenant-initiated system of rent regulation has failed. Government action is long overdue and rent review has to be changed from the voluntary system that it is now to a mandatory system that applies to all tenants and all landlords.

What does Bill 51 propose? First, it proposes an amnesty for all those who broke the law prior to last August, as long as they register and promise to stop charging illegal rents. Second, even if they continue to refuse to comply with the law and refuse to file the required rent statements, they can still collect the guideline rent increase, or they can save it up till the time when they feel like filing and pass it on to the tenants all at once. Third, landlords can drag out 10-years' worth of bills to retroactively justify their illegal rents. Finally, rent increases in all units across the province will be assumed to take place whether the landlord asks for a rent increase or whether the landlord charges it.

This does not add up to something that meets the needs of tenants. What

is bitterly disappointing about Bill 51 is that it is so insensitive to tenants in the way it treats illegal rents. For years there has been an incentive to break the law and there is little or no opportunity for the tenant to obtain redress for this law-breaking. Even after the tenant goes to the often impossible task of finding out the previous legal rent, he had to endure a hearing at the Residential Tenancies Commission and the only remedy was to have the moneys slowly paid back by the landlord without a penalty, without interest, and in devalued dollars. This created serious problems with respect for the law and created a lot of abuse of tenants. The money we are dealing with here has been stolen from tenants. The government has no moral right to legalize this theft.

This proposal demonstrates more clearly than most of the other proposals that Bill 51 is a giveaway to landlords. Even Stuart Thom, who was not the greatest friend tenants have ever had, recommended that nothing should be done to impair the right of tenants to recover moneys to which landlords are not entitled.

Then there is the retroactive justification of illegal rents. This is not a concept that we run into too often in our legal systems and there really is no reason for introducing it here. Permitting rent increases based on applications that could have been made by landlords who chose to break the law is a slap in the face to landlords who obeyed the law, as well as to the tenants. Since many illegal rent hikes occurred when tenants turned over, the retroactive rent determination hearing is going to be a farce, because the tenants who knew the facts moved out long ago. Tenants who could prove that the new roof this eight-year-old bill purports to be for was not put on, are not going to be there to say that the roof was not put on. It is the height of cynicism to suggest that this is the way to bring a rent registry on stream.

We think some things can be done about the rent registry. No rent increase should be allowed if the required statements have not been filed--no guideline increase, nothing. No rent arrears cases should proceed in the courts unless the landlord can prove he has complied with these fundamental requirements. There are dozens of arrears cases going to district courts in this province every day. Usually the lower-income tenants are going. Their landlords are most likely to evade rent review. That is where you can get them. Do not give them evictions for arrears unless they comply with the law and register their rents.

Finally, the registry should be updated only when the ministry receives a duplicate copy of a notice of rent increase. In this way the registry would reflect actual rents, would reflect reality and not an inflated, artificial maximum that would in due course create pressure to push that tenant out and get the legal maximum from a new tenant.

We understand why the government thinks it is going to take more than a law requiring them to do so to make landlords comply with the rent registry laws. We agree that a comprehensive registry is essential if the legislation is going to work, but we think that stronger enforcement and suspending landlords' remedies would be more effective than the incentives offered in the bill. Tenants are the ones who are going to be paying the incentives. Perhaps the government would feel differently if it were proposed that these incentives be paid out of tax moneys or subsidized through the tax system.

We think that all tenants deserve the same protections. They should be treated equally and their rents should all be set by the same rules. This is why we have a lot of problems with Bill 51.

There is discrimination against roomers. I think everyone can agree that is the part of the rental market where tenants have the least money and landlords have the least respect for the law, but there is not going to be a rent registry and rent review will continue to rely on voluntary restraint.

Mr. Reville: Excuse me. The government has indicated it is going to amend that section to cover roomers under the rent registry. Because you have a lot to say, if the government does bring in an amendment to protect roomers under the rent registry, would you be content?

Mr. Hale: As long as it is brought in with a package of something that prevents people who phone up the rent registry and try to enforce their rights from being arbitrarily evicted, it will go quite a way.

I will not go on about that, but the way these tenants have been treated is a disgrace. They are the people at the bottom. They have not got a fair shake from the province.

We have talked about chronically depressed rents. Then there are the people in the uncontrolled sector who were promised during the election and in the accord that their units were going to be brought under rent review. Tenants and tenant groups thought this was great, but Bill 51 brings back inequality and provides for increases above and beyond operating cost increases, improvements, operating losses and hardship. They call it eliminating economic loss. This is not what was promised. Landlords of buildings covered by rent review are making money under the present system. We see the economic loss as extra billing of tenants; there is no reason for it.

A lot of factors go into quality of housing, but I think you know what we are talking about when we talk in the context of existing housing stock policy. Is the painting done? Are the floors level? Do the windows work? Does the plumbing work? Often tenants do not get them. I am sure you are aware of this. When they do not and go to rent review, where 15 and 20 per cent rent increases are justified, they become a little disillusioned with the rent review process.

We think that rent review is the most logical and efficient way to deal with the general concerns of tenants about maintenance and repair. The process provides a system of reward and punishment for particular landlord behaviour and provides an opportunity for all tenants to participate in discussion about the management of their housing. We think sections 14 and 15 acknowledge that these considerations are essential to the rent review process.

## 21:20

However, there is something missing. What is missing is what we out in the street call "teeth" in legislation. First, the province does not take any responsibility for enforcing the standards. It abdicates this responsibility to the municipalities, which have to rely on property taxes and never seem to have any money. Even wealthy municipalities do not seem to have enough money to devote to adequate enforcement of property standards or to provide any kind of assistance to tenants.

Next, the connection between rent increases and compliance with the standards is pretty tenuous, and it makes us think the maintenance board was tacked on at the last minute. I cannot imagine a weaker penalty than just saying to a landlord: "You do not live up to your obligations. We will defer



considering your application for an increase over the guidelines." Even that mild sanction will not be applied if the board or the minister decides that it was not the landlord's fault or that the application or appeal should go ahead anyway.

It has the change in the standards of maintenance of the complex as another way of tying rents into maintenance. It has been a complete failure for all the time it has existed in the legislation since 1979 and before. Therefore, we are left with a law that ignores maintenance in the setting of rent increases, and it is going to lead to the same dissatisfaction with the process that has existed for the past 10 years.

Bill 51 does not provide us with what we need, and that is enforcement of housing standards. Landlords must be made to comply with standards before any rent increase is granted, including a guideline increase, and it should not be just a deferral. It should be a suspension of the increase until the standards are met, and then the increase can take effect.

If they are going to raise rents beyond the guideline, they should prove they comply with the standards as a precondition of carrying out the application. Then we can start to do something about the deterioration of the housing stock. We have had a law since 1968, the Landlord and Tenant Act, that requires landlords to repair and maintain rental housing, and cost pass-through makes tenants pay for those repairs. We do not object to those things being allocated in that way as long as it is done fairly, but tenants are going to be facing a huge repair bill over the next decade, and when you talk about adding in six or eight new factors to raise rents, you have to keep in mind that the repair bill is going to be passed on too. You have to think about moderating those other factors if tenants are going to be able to afford to pay the repair bill.

We thought there was an encouraging step in there, in giving the minister and the hearings board the power to refuse to recognize capital expenditures where the landlord has neglected his responsibilities under the law, but by putting in that the neglect has to be ongoing and deliberate, the section has no meaning left.

There is no discretion granted to the minister. The hearings board should be able to disallow maintenance or capital costs that are unreasonable. That is not in Bill 51. Even though there is a consultation process, it is going to turn out to be meaningless if you go through it, the tenants and landlords sit down and consult about the capital expenditures, the landlord says to the tenants, "You are next," they go the hearing, and it is found to be a ridiculous expenditure. The minister is forced to pass the cost on to the tenants anyway. It completely undermines that consultation process, and I do not think that is consultation or dialogue.

Finally, we cannot do anything about maintenance unless we have inspectors. As I said, the municipalities are not the proper place for that to be done unless there is some commitment that substantial amounts of money dedicated to these services are going to go to the municipalities, and provincial inspectors to provide a backup where the municipalities cannot or will not do it. We have gone beyond the point where standards should be enforced by private lawsuits of tenants against landlords, and we have to devote some resources to doing the job.

With respect to procedure, we have addressed some of this under equal treatment. We believe all tenants should be treated equally. The legislation

has to recognize that there is a fundamental imbalance of bargaining power between tenants and landlords, and the law must take this into account.

Most landlords are relatively sophisticated in technical and financial matters, but there is a wide variation among tenants as to these skills, their experience or their interest. Tenants have the added responsibility of having to organize to arrive at common positions to make any kind of presentation to a rent-setting body.

There is always the possibility that people will be divided and that behind-the-scenes pressure or inducements will be put on them. That is why we are concerned about administrative review. From reading the legislation, it is wide open, it is unstructured and it is a free-for-all, but it can have dramatic consequences for tenants if they reveal too much, reveal too little, or do not ask the right questions. It could be an effective discovery process--what the landlord's claim is all about--and an opportunity for input, but the bill is too vague to give us any confidence that it is going to provide these things.

There is still going to be a conflict between people who own property and people who have to rent to provide a home for their families, and we think the best that can realistically be hoped for is that these conflicts can be worked out in an atmosphere of mutual respect and good faith and that government policies will be designed to encourage that.

If the hearing board is going to be installed in a way that helps tenants get access to it and that provides full disclosure and real participation in its hearings, then our objective, which is to have one good hearing in accordance with the principles of fundamental justice under the supervision of the Supreme Court, will be achieved.

However, there are a number of problems in the bill that are not going to let this to happen. It is assumed that administrative review is going to be the standard decision-making and that there are going to be very few hearings. There is no supervision of the administrator's decisions unless the tenant appeals, and the tenant's decision to appeal or not to appeal may have serious consequences for affordable housing and for future tenants. No provision has been made for providing tenants with advice, assistance or support services that are going to enable them to have a meaningful participation in these proceedings. The right to organize is still baldly stated, with no remedy if somebody chooses to infringe it.

Landlords still have all kinds of discretion to choose methods of calculation that are going to be advantageous to them and to plan applications that are going to be to their advantage, and there is no way for tenants to challenge these. Tenants cannot challenge guideline increases on any meaningful grounds, and landlords do not even have to reveal their current operating costs when they come to the minister and claim they are losing money. There is no way for tenants to initiate cost correction, and all these possible fiddles undermine the fairness and credibility of rent setting.

The most glaring oversight is the lack of a provision for tenants to make an application to have costs that are no longer borne removed from the rents. The way these issues are treated, even when they can be raised, is completely inadequate. Many rents are inflated because of huge rent increases granted by rent review during the high-interest-rate period. The financing costs have been long since reduced, but there is no way for the rents to be correspondingly reduced, and Bill 51 does not even propose any such way.

Similarly, there is no reason that capital expenditures should not be completely removed from the rent once they have been paid off, especially at a time when a replacement capital expenditure is being made. Why Bill 51 proposes only 80 per cent is completely beyond us. It is unjust enrichment, pure and simple.

We have all recognized that leaving these costs in the rent is unfair. We have recognized it for years, but it is not adequately addressed. Tenant applications are not going to be made every day, but at least it provides some way for the landlord who is taking advantage of the system to be potentially stopped.

Again, it reflects the lopsided philosophy of the bill. Rents have to increase; rents can never go down. Therefore, the unfairness of the cost-no-longer-borne provisions is just left to sit there. Tenants are not going to forget that their needs for these things were ignored when they had their opportunity to judge how effective the government was in meeting these concerns.

21:30

Then there are the decision-makers. I think we all realize that no matter how good the system is, the quality of the people making the decisions has a lot to do with it. These people need some kind of sensitivity to the problems and concerns of tenants, and that has not always been apparent with the people who are charged with decision-making under the Residential Tenancies Act. We would like there to be consultation with tenants and tenant organizations concerning appointments to the hearing board and an extensive training program, including meeting with tenants and tenant advocates. We will be counting on those people for some pretty major decisions about our lives and the attitudes they have will be crucial to us. I am getting to the end; I hope you are still with me.

Bill 51 seems to contain the premise that if you throw more money to the landlords, they will build more housing. It proposes the transfer of millions of dollars from tenants to landlords, with no strings attached. We think it is ridiculous to assume that because landlords have more money it will be invested in building rental housing. Have you ever seen any evidence that the illegal rents they have collected above and beyond what they needed or the profits made in the uncontrolled sector have been invested in building new residential housing? We have never seen that evidence. Surely the 10 years when there were no controls on the rents in new buildings is a long enough trial period to figure out that the development industry and profit-oriented development is failing and will continue to fail to provide the housing that people can afford.

We need a substantial and ongoing commitment to a large public presence in the provision of affordable housing, both in new construction and acquiring existing moderately priced housing. The rent review system has generally guaranteed that rents are high enough to cover financing and operating costs, so we would not have to continually subsidize these buildings if they were purchased by the government and operated on a nonprofit basis. We could also eliminate the threats of large rent increases, demolition and conversion and neglect that we are taking so many cautious steps to deal with by other means.

We think an aggressive approach has to be taken and rents have to be set which will attract people to these buildings and force the private landlords to compete with the government's housing. The province owns a lot of land.



There are a lot of community-based nonprofit developers and we could begin to address the chronic shortage in that way. We think the efforts that have been announced are pretty hesitant beginnings. It will take dramatic expansion and sustaining of this initiative before any effect can be felt.

To sum up, the government is trying to take the ideology and politics out of rent review through consultation with various groups. We do not believe this is possible given how fierce the landlord lobby is and how well-heeled they seem to be. We cannot afford to have a government that thinks the provision of housing for people is an ideological position. It is not an ideological position; it is just good public policy. The importance of decent housing to people's personal wellbeing and the social wellbeing of Ontario cannot be overstated or underestimated. The social costs of failing to do this are everywhere around us.

Continuing to rely on a market system that has been a miserable failure for so many people is a serious mistake and, unless something is done about it, we do not think the voters of Metro Toronto will forget this neglect.

Mr. Chairman: Thank you for your presentation, Mr. Hale.

Mr. Reville: Thank you for your very tightly argued brief. I expect that you will hear me quoting from it often.

When the Ministry of Housing did its review of the bill for us last week--as you know it is very complicated--it indicated there were six main features of the bill--no, seven. They are universal coverage, administrative review, rent registry, flexible guideline, a right of appeal, a Residential Rental Standards Board and a balanced economic package. Correct me if I am wrong, but in your brief you have found serious fault with sections of the bill that deal with every one of these main features. Is that correct? Did you miss any of them?

Mr. Hale: I think there are problems in virtually all those areas.

Mr. Reville: Thank you. Perhaps even more than about the substance of the bill, the government, the Minister of Housing and his officials have talked about two over-arching themes, the golden arches of McBill 51, if you will. One is that this bill is the result of a historic consensus. The description of this consensus and how it was achieved that I read in the Ontario Homebuilder sounds like something that happens in some part of the Bible when you are travelling on the road to somewhere. Somehow, landlords and tenants were suddenly bathed in light and embraced one another. I judge you reject that this is based on a consensus that you are part of as tenant representatives.

Mr. Hale: The Federation of Metro Tenants' Associations is not part of that consensus. The Minister of Housing made it known that he wanted to consult with tenants and landlords. We sent him names of some people whom we thought would participate in a consultation process. He chose some people from that list of names and they provided him with their input on these proposals.

Mr. Reville: I think we have had 19 deputations from people in the past two days. There were seven from tenants' organizations and 12 from landlords. As I listened, nobody was really enthusiastic about it. Some landlords and tenants were downright unhappy about it. How could that have happened, given this process the government set up?

Mr. Hale: The bill may be better than it would have been without the consultation. It was not as though these people went to these meetings and then came back and had their decisions ratified by the groups they were associated with. In fact, the signature of the only person who was given the opportunity to do that does not appear on the document.

Mr. Reville: That would be Mr. McIntyre from Ottawa.

Mr. Hale: I think so.

Mr. Reville: I expect we will hear from him when we go to Ottawa.

Mr. Hale: The people on that committee, both landlords and tenants, worked hard. I have spent some time looking at the report. What we see throughout the report is text from the December 1985 assured housing policy, which is the meat, and the committee recommendations which fiddle around with that proposal. They did not write the policy. The government proposed the policy and said, "How can you people best live with that?" I do not like to see the government or the members of the Legislature trying to give up or avoid their responsibilities for legislation by pointing to that committee.

Mr. Reville: The minister said not to monkey with this bill or the whole thing will fall apart.

Mr. Hale: It seemed kind of ironic that on some significant day--I forget which date it was--there were full-page ads by Mr. Grenier's group announcing rent review. It is possible that it might have fallen apart already. I do not know.

21:40

Mr. Reville: The other over-arching theme is that this bill will somehow encourage developers to go out and build rental housing. How do you feel about that particular arch?

Mr. Hale: We believe that is just a fallacy. I guess Mr. Grenier and his folks have told that to the government and it believed him, but we do not believe it. We have had 10 years when they could charge whatever rents they wanted for buildings--no controls, no 10 per cent return; they could charge whatever they wanted--and we have seen the results. There have been very few buildings built and even fewer that anybody can afford to live in who cannot pay \$2,100 a month.

Mr. Reville: Mr. Hale or Mr. Holt, is there a way to fix this bill?

Mr. Holt: Our problem is that the bill relies on the private market. The private market in Ontario is competing with the private market not only in Alberta but also in Florida, Hawaii and around the world. Landlords are motivated to make the biggest buck possible. If they have to leave the province to do it, they will leave the province. They have no sense of social responsibility; they have only a personal financial responsibility. We have to rely on the government's sense of social responsibility. The government has to get into the field. It cannot throw our money at the landlords in the hope that maybe they will live up to their social responsibilities.

Mr. Reville: The government has said very clearly that if you want a housing policy in this province, tenants have to buy it from landlords. I think that is what this bill says.

Mr. Holt: You cannot buy anything without a contract and there is no contract in here. It is just, "Give us the money, and if you do not get the housing in two years, we will have to decide whether you did not give enough money then." If this goes through, that is all we can expect, because the fallacy upon which this bill is based will presumably be the fallacy upon which the next bill will be based. Whatever lesson is to be learned from the abdication of responsibility and the conditions the government is asking landlords to accept will be proved to have been in error. We have that proof now.

Mr. Reville: Are you aware the government has already said there will be at least 100 amendments to this bill?

Mr. Hale: It probably needs at least 100.

Mr. Reville: The problem is, we do not know whether the 100 amendments will make it worse or better.

Mr. Hale: That is our problem.

Mr. Reville: We have been asking the government to produce its amendments. When it does, I am sure you will want to look at them.

I do not have any further questions. I want to thank you for an excellent deputation.

Ms. E. J. Smith: I too appreciate that you have put together a well-reasoned and well-thought-out presentation, from both your point of view and many others. I share particularly your thoughts stated at the beginning on social policy; namely, in this country the rich are getting richer and the poor are getting poorer. That is something our governments must address in policy. The extent to which it can be addressed in this one bill is the issue before us.

I assume you are aware this bill is addressing only a certain portion of what would be the ministry's assured housing policy.

Mr. Hale: For us as tenants in existing housing, it is the one that affects us every month when we write that rent cheque.

Ms. E. J. Smith: There are all types of tenants in existing housing. For many tenants it presents different problems, but for every tenant it presents a very personal problem and for some perhaps an impossible one, depending on social situation.

You talk about relying on the private market. In many ways, this bill is addressing that portion of the housing market that does involve itself with the private market, recognizing there is another portion of the housing market that must then be addressed.

Someone suggested that the government is avoiding looking at the social problems by turning it over to this combined group to look at, whereas I would say that this combined group was asked to look at a certain portion of the problem. It came up with an answer that was a compromise but which addressed that portion of the market that involves private money.

Mr. Hale: No matter how good it is, a rent review act will not solve all the problems of the world or even all of Ontario's income and employment



problems and things such as that. We do not think that.

Ms. E. J. Smith: It is complicated. I find it astounding that more than one member here has said that he finds it surprising that none of the delegations agrees. I do not think anyone on the committee would have agreed 100 per cent with the whole bill. What we have here is just as if we had had two interest groups put together an act to look at and share problems and come up with a compromise in writing this bill. Once again, we are hearing from different interest groups which wish, quite fairly, to make sure their side of the position is presented. This is reasonable, but do you expect that a compromise position that is arrived at and for which there is hope, could ever totally present your side?

Mr. Hale: No, I would not expect that, but I also do not expect an unrealistic situation set up where there are nine tenants in the world and nine landlords in the world, and the government as the referee dictates how the Legislature should deal with the rent review problems.

The reality is that there are a lot more tenants than landlords. In a democratic society, you have to deal with the concerns of a majority. You cannot elevate a minority into a position where its right to make money assumes equal importance with people's right not to freeze to death on the street. That is part of where the problem is coming from.

As I said, the policies were set. The Minister of Housing said: "Here is the policy. What details can we work out to implement this policy?" Nobody on the committee was required to swear allegiance to the policy. Mr. Grenier certainly does not accept the policy when he is running full-page ads that say rent review should not even exist.

It was historic actually having tenants go into the Minister of Housing's office to talk about their concerns. That had not happened in my lifetime that I was aware of in any serious way. It was historic in that way, but let us not blow it out of proportion. The government set the policy and said, "Here fix up the details so that you will not...." These people worked hard on fixing up these details, but there are some fundamental problems with it which are just too much of a giveaway. The government is relying on a group of people who have not really proved to be too reliable in living up to their obligations in the past.

Ms. E. J. Smith: That leads to this rental standards board. First, when you make the statement that there are more tenants than landlords, that surely does not avoid the other issue that whatever we do in these areas--if we do not attack the private market and it is all public money, and you say there are more tenants than landlords--the government can spend only the public's money, and that is all of the problem. We do not spend our money. We spend public money. We try to involve landlords only for reasons that otherwise we can involve only the public's money.

I make that point, but about the standards board--because you have talked about this--I concur with your concerns that this standards board must be meaningful, and I am sure we are taking your words very seriously. Certainly, in my own opinion, this is one of the big benefits for tenants.

Mr. Hale: If you look at what landlords got, you can sit down there to figure out how much money they are going to get, but when you read the part about the maintenance board, you do not have a clue about what will actually be enforced or how it will actually work.

9:50 p.m.

Ms. E. J. Smith: I guess I am saying that I do hear you on that. I have been on city council and feel very strongly about enforcement. I know that none of the regulations has been written. I know the minister hears you, and I believe we all recognize the importance of this being meaningful.

Mr. Hale: It is going to take some work, from what we see here.

Mr. Pierce: Thank you for your presentation, Mr. Hale. You have certainly added some new lights to the bill that were not necessarily shining before.

I am a little disturbed by your comment that the ministry solicited names from different organizations and tenants' groups. You submitted the names; those people were selected by the ministry and became part of the committee. You go on to say that only one member of that selected group went back to the tenants' group to keep it informed of what was really happening with respect to the bill.

Mr. Hale: No, it was for ratification. The people on the committee talked to us; they were not completely locked up for those three months. It was not ratified, however, and the one guy who went back to get it ratified by his group came back and said he could not sign it. That shows something about what it meant.

These people talked to us. We talked about these things. We pressed them to press the committee to press the minister to meet our concerns. Our concerns were not, in large part, met.

Mr. Holt: Let us be clear that this historic consultation process was just that. The people who represented the tenants' interests as best they could were good tenant representatives, in the federation's opinion. However, they were not acting as representatives. They were acting as people who were in an unreal situation. Their job was to produce a package that would resemble, as closely as the landlords could swallow in that area, the reform structure tenants had been promised and had been demanding, asking and begging for virtually since its inception.

The landlords could swallow this package. If Mr. Reville's characterization of landlord objections is accurate, I would be surprised to hear that they are as strongly opposed to this bill as tenants are. Their bottom line is more than adequately met. They get lots of bucks. They are even perhaps going to pull back from Alberta, God knows; some are and maybe some are not. They are, however, interested in the bottom line. They have been getting that bottom line illegally. They can swallow this package now because it is going to legitimize the crimes of the majority of landlords.

Mr. Holt: Our representatives could not leave, any more than tenants can if they do not like the way their building is being managed. Landlords say a thousand times a day to a thousand tenants in Metro Toronto, "If you do not like it, leave." That is a popular refrain, all too popular. We have heard it long enough when there is a 0.2 per cent vacancy rate.

Those tenant representatives could not leave the room. I believe they were terrified. There was secrecy. There was good faith. There were things they could not tell us. We heard that. There was no full and open consultation process. There was consultation and discussion, but they were not acting as

our representatives. They were not going in and bargaining with the other side.

Frankly, I believe I speak for a lot of tenants when I say that when we were consulted, we were flattered and hopeful. As the consultation process went on, we continued to be hopeful. We were able to meet with ministry officials to discuss our objections, but we felt betrayed when it was announced: "This is it, folks. It is going to public committee, but you had better not criticize it, because this is the way it is going through." That we resent.

Just to sum up our position, there is the shell of what we want here. Now we want substance in it. Now we know the government knows we want a rent registry. Now let us have some teeth.

Mr. Pierce: Mr. Hale and Mr. Holt, I am sure the committee shares your concern and your feeling of betrayal. We have heard these stories from both sides, from both the landlords and the tenants, both sides feeling betrayed. I am sure we are going to hear much more before we are finished. You are number 20, I believe, out of something like 140 or 160 who requested hearings with this board.

I am just a little bit concerned with some of your brief comments in your presentation. We heard an earlier presenter talk about all the additional costs and what municipal taxes represent to the tenants. The figure is something like 35 per cent of the cost of rental accommodations that are municipal taxes. Yet when we take a look at your presentation, you are asking for more provincial and municipal involvement in tenants' problems, where additional inspectors, inspections and all of those things are required, and of course, they represent a cost.

Where is the cost going to come from? If it does not come from the tenants, as somebody said earlier today, the government does not have any money. The money is that of the taxpayers.

Mr. Hale: I guess we think of it as an investment. If the Canadian people have decent places to live, we will not have to build so many jails in the next century. Maybe we are not going to have to have as many hospitals and social services because people had some of the fundamental things when they were growing up. Those are the kinds of things we think result from a good housing policy. It is money that is an investment for the future.

Municipal taxes are not a fair way. Building housing should not be financed by municipal taxes. Municipal taxes, everybody agrees, I think--I do not know; somebody might not--are not really a fair system of taxation. They do not really deal with what you can afford to pay. It has to come out of a fair taxation system that takes from people according to how well they are doing.

I am not trying to be facetious by saying it is an investment, because I really do think bad housing contributes to so many things in our society that we take for granted as just unsolvable social problems and on which we spend a lot of money.

Mr. Chairman: We thank you for your presentation. It was very comprehensive and obviously very thoroughly done.

Mr. Hale: Thank you for staying overtime to hear us too. I know it is not easy.



Mr. Chairman: That is all right. I hope you will pass on to your membership the appreciation of the committee. I know your membership certainly must have restrained themselves on several occasions during the evening and we appreciate that very much.

Interjection: Mr. Chairman, may I say something?

Mr. Chairman: Fire away.

Interjection: As a member of the FMIA, I would like to offer my thanks to the gentleman who was responsible for this report presented here tonight. I think he did a terrific job.

The committee adjourned at 9:58 p.m.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

RESIDENTIAL RENT REGULATION ACT

WEDNESDAY, AUGUST 27, 1986

Afternoon Sitting



CHAIRMAN: Laughren, F. (Nickel Belt NDP)  
VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)  
Bernier, L. (Kenora PC)  
Cordiano, J. (Downsview L)  
Epp, H. A. (Waterloo North L)  
Knight, D. S. (Halton-Burlington L)  
Pierce, F. J. (Rainy River PC)  
Reville, D. (Riverdale NDP)  
Smith, E. J. (London South L)  
Stevenson, K. R. (Durham-York PC)  
Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Davis, W. C. (Scarborough Centre PC) for Mr. Bernier  
Jackson, C. (Burlington South PC) for Mr. Stevenson

Clerk: Decker, T.  
Clerk pro tem: Forsyth, S.

Staff:

Ward, B., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)  
Church, G., Assistant Deputy Minister, Corporate Resources and  
Building Industry Development  
Peters, F. H., Director, Rent Review Division

Individual Presentation:

McGrath, H. J., Manager, Bowes and Cocks Ltd., Realtor; Member,  
Peterborough and District Landlords Association

From the Toronto Real Estate Board:

Brooks, K., Vice-Chairman, Political Affairs Committee; President,  
Keith Brooks Real Estate Ltd.

Individual Presentation:

Probert, H., Member, Fair Rental Policy Organization of Ontario;  
Member, Hamilton Apartment Association

From the Ontario Co-Operative Housing Committee:

Dunphy, N. A., Provincial Relations Coordinator

Individual Presentation:

Zavitzianos, H.



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, August 27, 1986

The committee met at 1:12 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT  
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The standing committee on resources development will come to order. I should tell members that there has been a letter circulated to tenants by Kay Gardner, councillor for ward 1 in Toronto, urging all tenants to come to the Legislature on Thursday, September 4. We will be scheduling a different room from this one. Last night was tense enough with numbers. I think we will have a larger audience.

Mr. Epp: Does that include all the members of the Legislature who are tenants in Toronto, too, while they are here on government business?

Mr. Chairman: Absolutely. Yes. You should try to be there.

The other thing is that pressures are building from Ottawa. Most of us understand that Ottawa is the second tenant hot spot in the province after Toronto. We were scheduled to be in Ottawa on September 18, a Thursday, and to hold hearings from one to five and seven to nine, but it looks as though we are going to have difficulty with that schedule.

I do not believe anyone wants to stay over to the Friday evening. I am hoping, though, that members can stay over for part of Friday. We will phone everybody who has indicated a desire to appear in Ottawa to see which ones can appear only in the evening. We will schedule them on the Thursday evening and try to get everyone else in on Friday morning or early Friday afternoon, so that members can still get back to their constituencies.

If any members have my kind of schedule, Friday evenings are very often booked for one thing or another in the riding. We will try very hard to get it disposed of as early as possible on Friday, but I think it is a bit much not to give Ottawa its day in court when it is the number two spot in Ontario for tenant activism. They have shown a lot of interest. We will try very hard to work that out.

This afternoon, we have a presentation for now, one at two o'clock and one at three o'clock. The rest of the day is filled up, with no blanks. The first presentation is by Harold McGrath. Sorry for the delay. Please come to the table. We have only two copies of the brief, which is quite brief. Welcome to the committee.

HAROLD McGRATH

Mr. McGrath: Good afternoon, ladies and gentlemen. I am here, first, on behalf of myself and, second, on behalf of the Peterborough and District Landlords' Association. I am also a member of the Fair Rental Policy Organization of Ontario.

The following are concerns of developers and landlords about the future of Ontario. As a landlord in a small city, I feel that many of the landlords are not academically capable of handling the procedures of controls and the red tape that is attached to them. Therefore, as these smaller landlords who do not understand the act, etc., learn that their duplex and small income properties are worth more as single-family dwellings, they will convert these dwellings. This action will remove thousands of low-income apartments from Ontario.

I am also affiliated with the real estate business. I work as a salesman. This week I was notified, or found out through calls as a landlord for apartments, that there have been three duplexes converted to single-family dwellings this past week. A lady friend of mine has lived in one of them for 15 years and she is being relocated.

Inflation was ignored for rent controls for a period of 10 years. Then, when it becomes politically advantageous, the politicians climb on the bandwagon with no respect or concern about free enterprise or the future availability of apartments.

The construction business is the number one employer of our young, grade 12 prospective labour force in the country. If we keep the building industry depressed, the opportunity for young people is jeopardized.

One of the greatest problems in building new apartments is that the rent level must be much higher than the older, controlled rents. This results in tenants making applications all over the city in the older, controlled buildings and when they see an opportunity, the tenant relocates, leaving the new building with extra leasing costs, rental loss and cleaning and decorating costs. Bill 51 could help that situation.

I have a friend who built a 34-unit building last November. He is having real trouble with people coming in and just ignoring their leases and leaving to get into older, cheaper buildings. The amount of money is not worth suing for, so he just puts up with it. It is a real mess. Even when you build a new building and take the chance, that seems to be the biggest problem in our city.

In 1976, the vacancy rate in Peterborough was about eight per cent and there were about 500 unfinished apartment units that construction was halted on. Most of the 500 units were not completed and occupied till 1981. This shows to me that rent controls have removed supply, leaving tenants with little or no choice of where to live. They just have to take what they can get. Bill 51 could help the tenants.

Providing shelter, as a landlord, could be compared to farming. It is a chosen way of life. It requires a large commitment in both time and money. As we all know, government-controlled milk marketing boards have eliminated the small farmer and many small farms are now being used as rural residences. Bill 51 may slow down the sale of duplexes for single-family use. We must not forget that the older duplex provides a large supply of reasonable, acceptable low-rent housing. It is very important to keep our small landlord in business.

My own bank manager told me that rent controls are a damaging factor in the decisions of prime lending institutions. For example, I personally have a building with an appraised market value of \$700,000. There is a \$300,000 first mortgage with interest at 9.75 per cent, not due until 1994, with a 35-year amortization, and a second mortgage of \$156,000 that came due.

13:20

I applied to three different prime lending institutions for a 20-year amortized, five-year second mortgage. A second mortgage was not available. My options were to discharge the existing first and take out a new first that would pay off the second, or to take a demand loan for the cash needed. The maximum demand loan amortization was 10 years. This increased my immediate monthly cash requirement from \$1,677 per month to \$3,800 per month.

I applied for a rent review hearing. After nine months of harassment on my part and that of the tenants, the result was that I could not reduce the amortization period even with evidence that the demand loan was the only choice of financing available to me. Bill 51 may help to improve available commonsense financing.

It is my view that increases on buildings where the landlord pays for the heat and hydro should be one per cent more than on buildings where the tenant pays for the heat and hydro.

If we do not proceed with Bill 51, landlords will be financially unable to maintain reasonable maintenance of their buildings, depreciating the value of life and respect for thousands of tenants. The Appraisal Institute of Canada, Ontario Division, has used the figure of three per cent of building value, called longevity costs, just to maintain the exterior and replacement of mechanical components.

It is also my opinion at this time that the developers and landlords in the province are reasonably established people and are on hold. What about the next generation of business people? All of us cannot sell pizzas and hamburgers. The majority of younger people I talk to are afraid to get involved with investment that has damaging free-enterprise laws.

It is commonly known that the cost of resale and new homes has increased from 20 per cent to 40 per cent in various areas of Ontario. This will have a large effect on the capability of our younger population to own their own homes, which will inevitably put more pressure on apartment living. Bill 51 may help to prevent a catastrophe.

It is my opinion that landlords are being forced to give up pride of quality and ownership of their product to survive. If Bill 51 is not exercised, the pride of owning a nice-quality building will be depressed even more. I assume Russia is a good example. Bill 51 may help to keep respectable apartments.

It appears that socialistic giveaways are popular attractions to a large percentage of the voting population. Politicians use this either to get into power or to stay in power, regardless of the long-haul damage it does to society. Any politicians I have heard from through association or personal contact indicate that they personally feel rent controls are wrong. However, if they want to get to political power or stay there they must advocate rent controls. Bill 51 may help to stop the politicians from using rent controls as an election tool.

In closing, I must congratulate the direction that tenants, government, developers and landlords have taken from the unrealistic, devastating Bill 78 to the creation of Bill 51. I hope to God that in future political aspirations to power do not destroy the direction in which Bill 51 is going.



Mr. Taylor: I have been struggling during the past two days to find someone who embraces and supports the bill. Do I interpret your submission as being in favour of Bill 51 as drafted?

Mr. McGrath: Yes, it is.

Mr. Pierce: Mr. McGrath, do you see Bill 51 as an opportunity for the landlords and developers to get back into the business of building and providing apartment buildings at affordable levels for people in your area?

Mr. McGrath: I would say the bill is going in a respectable direction. It is not good enough, but it is the best we can expect or hope for at this point. It is some support, but it is not enough to make the existing buildings comparable in price range to the new-building construction costs. There is an awful lot of government money put into subsidy which, in my opinion, the government cannot afford. The rents are just going to have to come up and be more competitive.

Mr. Pierce: What do you see Bill 51 doing for the tenants in your buildings, in respect to you as the landlord?

Mr. McGrath: I would have a much better chance of continuing to keep my buildings in good repair, which I do probably far too much. I know there are figures of two and three per cent for cleaning, fixing and what not, but mine are always around eight to 12 per cent. It is ridiculous, but that is just the way I am. Some people keep their farms nice and some do not. I have been in this business since I was 19 years old. It is a way of life with me and I do not like to see it destroyed.

Mr. Pierce: How many units do you have?

Mr. McGrath: Just 57; I am not a big landlord.

Mr. Pierce: You see an opportunity for you, as a landlord, to be able to increase your rents to a level where you can better outfit your buildings and keep them in a better state of repair.

Mr. McGrath: Yes. I have one building with 32 units. I forget what the four per cent increase brought in, but I know heat and hydro used up more than half the increase this year. It just will not work on a long haul.

Mr. Pierce: Can you tell me briefly whether the people who are occupying your buildings now can afford more rent?

Mr. McGrath: Oh yes, half of them are sitting, waiting and saving money with which to buy houses. That is one good thing about it; at least they are buying houses.

Mr. Pierce: Because of rent controls, you have a number of people in your buildings who are there because rent is cheap and it is cheaper than buying.

Mr. McGrath: Yes, half of them.

Mr. Pierce: If the rents go up, conceivably those people will move out and make apartments available for other people.

Mr. McGrath: They will be buying houses to create jobs for kids, sure.

Mr. Epp: With respect to the fluctuation of tenancies in your apartment, is there is a great changeover from year to year with tenants moving in and out?

Mr. McGrath: I do not know what a great fluctuation would be, but I would not consider it; no.

Mr. Epp: Five per cent, 10 per cent?

Mr. McGrath: Heaven's no. In one building, out of 32 units, there might be two units a year, whatever that would be percentage-wise.

Mr. Epp: Is this located in a very urbanized area?

Mr. McGrath: It is located on the river almost like a little resort hotel type of thing. It has a very nice atmosphere around it and is four or five blocks from shopping.

Mr. Epp: Would most of those people be in the older age groups?

Mr. McGrath: They are all senior people.

Mr. Epp: Once they have located there, they do not want to move.

Mr. McGrath: In my buildings, that is the case. In the rest of them, weekly, monthly, it is just come and go, wherever the wind takes them.

Mr. Epp: Obviously, you have discussed this bill with a number of your colleagues, other landlords and so forth. What seems to be the general attitude of the other landlords, as you have read it, with respect to this bill? Is there a general support out there for it?

Mr. McGrath: At a landlords' association meeting it just gets so out of proportion and unrealistic, I do not know whether Bill 51 will help keep up some respectable quality apartments. There are bad tenants and there are good tenants, and there are bad landlords and good landlords. You cannot thrash that out here or anywhere else. That is an ongoing way of life and that is it.

13:30

Mr. Epp: From your reading with respect to your discussions with other landlords, two things have come out of that, I understand from you today. One is that the buildings will be better maintained. The second is that there will be some incentive to build additional buildings. Is that right?

Mr. McGrath: Oh, yes, I think so.

Mr. Epp: In both cases.

Mr. McGrath: Yes, in both cases.

Mr. Davis: In the discussions that have occurred, there has been an indication from the minister that with the passage of Bill 51 there will be an increase in building in, for want of a better word, the upper levels of apartment buildings, more high-cost apartment buildings. You stated as a smaller landlord that Bill 51 would enable you to make the necessary repairs and keep your buildings well maintained. Do you believe as a smaller landlord that the person who is in your building now paying--I am going to guess at a

rent of around \$400 a month, and you maintaining your buildings as well as you have and even better--will be motivated to move from your building at \$450 a month to a newer building that is now going to be on the market in your area that will cost, say, \$800 a month?

Mr. McGrath: The new apartments in our area are running from \$550 to \$650 a month, depending on whether they pay or do not pay the heat and hydro. It is probably a lot less costly there than it is in Toronto.

Mr. Davis: Do you think your tenants will move to a newer building?

Mr. McGrath: No.

Mr. Davis: They will stay where they are and have it better maintained.

Mr. McGrath: Yes. It is the same quality as a new building. It is only 11 years old.

Mr. Chairman: In your opening paragraph you say, "As a landlord in a small city, I feel that many of the landlords are not academically capable of handling the procedures of controls and red tape."

Mr. McGrath: I run into that a lot through the association. They keep asking. I am not academically capable myself; I have only a grade 8 education, but I have read enough. I have processed a couple of applications on my own without professional help. At these meetings there are a lot of younger landlords who buy a small building and end up selling it in six months' to a year's time. They get themselves into such a bind that they get out because they just are not capable of or prepared to put up with it.

Mr. Chairman: They do not really know what they are getting into when they go into it.

Mr. McGrath: That is right.

Mr. Chairman: Wait until they see this bill.

Mr. McGrath: That will shut them right down for sure. In all bills such as that, it is a massive piece of writing or whatever. Generally speaking, they all come down to two paragraphs or whatever that really affect how you go about getting an increase. The street knowledge, if a person wants to get it, does more than the book. I have never read the thing myself. I would not have the patience to do so or I likely would not understand it if I did.

Mr. Reville: You are not alone.

Mr. Chairman: No, you are not alone. Most of us do not make much of a correlation between grade 8 education and brains either.

Mr. Pierce: Mr. McGrath, I am sorry to hear that you have not read the bill, because you have said without any hesitation that you support the bill.

Mr. McGrath: I support the things I have heard about, yes. The capital cost--what do you call it?



Mr. Pierce: There are a number of clauses in the bill that reflect on you as a landlord and also reflect on tenants. To be supportive of a bill you have not read and do not know very much about really does not add much credit to the bill, because this bill is long in writing and extensive in explanations. In fact, it is 55 pages long and there are 126 sections in the bill. They present probably as many problems as you would want to have in front of you as a landlord and as a tenant.

I wanted to ask one other question.

Mr. Epp: Mr. Pierce, in fairness, he has indicated that he supports the principle of the bill and the general thrust of it rather than each individual item in it.

Mr. McGrath: My main concern and the main reason I am here is that I am so concerned about the small landlord getting out of the business. I know this province cannot afford a massive housing program. It is already broke, and so is the federal government. I am so afraid of these small, realistically priced apartments coming off the market by the hundreds of thousands and having to be replaced from government dollars and/or by expensive, unsupported apartments. I am here to try to stop that, if I can. If Bill 51 goes in the direction of increasing rents to keep the value of those buildings being worth more as residences than they are as duplexes, that is my concern.

There are jobs for young people. I have four sons who are trying to make a living in the construction business and they are doing well right now, because the housing industry is growing so strong.

Mr. Pierce: Single family.

Mr. McGrath: Yes. When all these tenants who have saved up all their money for the last 10 years have bought houses, there will be a giant crash. If apartment buildings could pick up the employment at that point, it would be really nice.

Mr. Pierce: Just let me pursue a different line of questioning, in respect to some of the comments on the bill as they have been presented to us. You have said you discussed the bill at some length with other landlords. Have you discussed the bill at all with any of your tenants?

Mr. McGrath: No, I cannot because they do not seem to care. They really do not.

Mr. Pierce: In which respect?

Mr. McGrath: In all respects.

Mr. Pierce: They do not care if their rents go up, or they do not care if their rents stay where they are--

Mr. McGrath: Oh, they care--

Mr. Pierce:--or they do not care if you are a landlord.

Mr. McGrath: They do not understand it.

Mr. Pierce: But they understand six, eight, 10, 12 and 14 per cent.

Mr. McGrath: That is right. They understand that.

Mr. Pierce: They just do not understand the bill.

Mr. McGrath: Right. Most landlords do not understand it, unless they are the larger, professional landlords in Toronto or in Peterborough. Most of our large landlords in Peterborough are from Toronto; so we do not get professionals coming to our meetings who probably could help us out a lot. They do not live there.

Mr. Pierce: We have had comments before the committee that the bill is being drafted because of a Toronto problem and will be administered for the whole province. Do you agree with that?

Mr. McGrath: That is the way the street talk is, yes. Toronto runs the province, and that is the beginning and the end of it right there.

Mr. Chairman: Are your sons happy that your tenants have such cheap rents and can save money to buy houses which your sons run out and build? We do not want your sons down on our necks.

Interjections.

Mr. Chairman: Are there any other questions?

Mr. Davis: Just a quick question, Mr. McGrath. Assume for a moment that you make application to increase your rents through Bill 51 and there are possibilities--let us say in your case they kick in, because I am using it to make a point--that your rent increases move up to around 12 per cent or even 15 per cent. If you find someone in your building who cannot afford that--it puts him into financial difficulty--how will you deal with that person?

Mr. McGrath: There is one lady who has not paid an increase for three years. I will not let her. Her husband is in hospital.

Mr. Davis: You just do it--

Mr. McGrath: That is just one. It is not a big deal. She cannot afford it, so I help her just for being such a wonderful person.

Mr. Pierce: Under the bill as it is drafted, that is illegal.

Mr. McGrath: I know.

Mr. Pierce: Are you prepared to operate illegally?

Mr. McGrath: I do not know what you mean. What is illegal? Not raising the rent?

Mr. Pierce: It is illegal because if you do not raise the rent and the tenant across the hall ask for equalization, under the new bill he can be given equalization. Everybody is going to--

Mr. McGrath: I should not have mentioned that.

Ms. E. J. Smith: That is not true.

Mr. Pierce: Is that not true?

[PAGE 10 FOLLOWS]

Ms. E. J. Smith: The bill deals with permitted rents, and you can equalize permitted rents.

Mr. McGrath: I know I should be charging her the full rent on her lease and discounting it for being such a wonderful old lady.

Mr. Davis: You do it the way you want.

Mr. McGrath: I am going to keep doing it too.

Mr. Chairman: Thank you, Mr. McGrath, for appearing before the committee and for giving us the views of the Peterborough and District Landlords' Association as well as your own. We appreciate your presence here.

I know the committee will want me to welcome back Mr. Ramsay, who has been in Timiskaming working on amendments to this bill.

The next presentation is by Mr. Brooks and Mr. Lowe of the Toronto Real Estate Board. I do not think they are here yet. Why do we not take a 20-minute recess now that the minister is here. We will come back at two o'clock.

The committee recessed at 1:40 p.m.

14:00

Mr. Chairman: The standing committee on resources development will come to order again.

The next presentation is from the Toronto Real Estate Board. Is it Mr. Brooks or Mr. Lowe? I am not sure.

Mr. Brooks: I am Mr. Brooks.

Mr. Chairman: You are Mr. Brooks. Good. Welcome to the committee. We are pleased that you are here.

Mr. Brooks: Do you want me to stand or to sit down?

Mr. Chairman: Just sit down and make yourself comfortable.

#### TORONTO REAL ESTATE BOARD

Mr. Brooks: My name is Keith Brooks. I am the vice-chairman of the political affairs committee at the Toronto Real Estate Board.

Before addressing Bill 51, the board would like to commend the government for having the wisdom to bring landlords and tenants together in an attempt to reach a better understanding. Although we respect the fact that an agreement was made, there are problems with the proposed bill that need to be addressed.

Before we talk about Bill 51, we would like to make it clear that the Toronto Real Estate Board is against any system of rent review, period. We believe that a society has a responsibility to ensure everyone has adequate housing, but rent review shifts the burden of this responsibility from society as a whole on to landlords. This is not only unfair but also, in the long run, hurts both landlords and tenants.



The result of rent review, as we have seen over the past 10 years, is decreased investment in rental residential buildings, a decline in the number of units coming on to the market, serious deterioration in the existing rental stock and a reduction in municipal property tax assessment.

Rent review is an imprecise means of redistributing income. It provides assistance for people who can afford to pay market rents, while many needy tenants still do not get the assistance required.

There are ways other than rent controls, such as shelter allowances, the encouragement of affordable housing and increased intensification of land uses, of ensuring adequate housing for everyone. Implementing these other solutions depends upon co-operation between the private sector and government. We must stress that the solution is not to put the burden of affordability solely on landlords.

That said, we recognize that, in the short term at least, we are faced with a system of rent review. The following comments represent our concerns about the system proposed under Bill 51.

1. Bill 51 does not provide a fair rate of return for pre-1976 buildings. While the bill allows owners of pre-1976 buildings to apply for two types of relief, the relief is inadequate in one case and the conditions in the other are so strict that few landlords will qualify.

For example, landlords whose rents are less than market value can apply to rent review for an additional rent increase of two per cent a year until the rents are increased to 20 per cent below market value rent. To qualify for this increase, however, the landlord must meet three stringent conditions: his or her rate of return on equity must be less than 10 per cent; he or she must have owned the building since November 1, 1982; and the rents must be at least 20 per cent below market rents.

It seems the government believes that owners of pre-1976 buildings should continue to subsidize tenants to the tune of 20 per cent below market rents. This is not what we were led to believe from the minister's words in the December 1985 assured housing policy.

At that time, the Minister of Housing (Mr. Curling) said many owners of pre-1976 buildings bought them with their savings and maintained them through sweat equity. He acknowledged that, as a result of rent review, these buildings have been caught in an unfair situation.

"People who have invested in Ontario's future have lost much of the value of their investments," he said. He promised the government would help landlords whose rents are chronically depressed, yet Bill 51 does nothing for landlords with rents stuck at 10 per cent, 15 per cent or 19 per cent less than market value.

We also believe that the November 1, 1982, condition is unnecessary if the issue is simply to help landlords whose rents are chronically depressed.

The second kind of relief for which owners of pre-1976 buildings can apply is hardship relief. This allows a landlord's revenue to increase to two per cent more than his costs. For example, if a landlord's total cost is \$100,000 and his total rent revenue is \$101,000, the allowance would increase his total rent revenues to \$102,000. This relief may be termed minimal, at best.

2. We see difficulty in the application of the Residential Rental Standards Board.

(a) How will the the objective standards of maintenance be determined and judged, especially when municipalities will be responsible for enforcing them? At present, municipalities are responsible for enforcing the building code and are known to differ in what they deem as acceptable under the code. We foresee a similar situation occurring with the standards created by the residential rental standards if these standards are enforced at the municipal level.

(b) By linking compliance to maintenance standards with access to the rent review process, political interference is encouraged. It is possible that politicians, bowing to tenant pressures, could be overzealous in their search for possible violations in order to delay a rent increase. We therefore believe that compliance with the maintenance standards should not be tied to rent review hearings.

(c) Landlords should not be prohibited from applying for rent review as a result of noncompliance with the maintenance standards. Landlords suffering from financial loss may not have sufficient funds and may have difficulty in obtaining the financing necessary to carry out the required maintenance. The rent increase for which he or she wants to apply may be the only source of funds or the basis for approval of financing.

(d) We also object to the suggestion in Bill 51 that tenants have some say in the general maintenance of the building in which they live. Tenants should not have the rights and responsibilities of ownership without the accompanying financial risks and long-term commitment.

3. Bona fide purchasers should not be victims of a rollback in rent. Bona fide purchasers, having made the decision to buy a property based on the given rents, should not be made to suffer a decrease in rents if the given rents prove to be unlawful after the purchase takes place. A rollback in rent will create undue hardship, especially for small landlords. The value of the property, the new owner's cash flow and the ability to get financing would all be seriously affected.

14:10

4. Landlords who did not raise rents to the maximum allowable will never recoup the revenue lost. It appears that Bill 51 does not allow landlords to regain lost rent increases where permissible rent increases were missed. It is unclear when a landlord reconsiders the actual rent as of July 1, 1985, whether he or she has precluded any possibility of raising the maximum rent based on previously missed increases.

5. The two per cent margin in the residential complex cost index formula should remain unchanged. The two per cent margin is enough to enable landlords to carry out atypical capital expenditures without going through the process of rent review. There is a large group of landlords who are either intimidated by the process or who feel they have been unjustly treated. These landlords will simply not carry out capital expenditures if the margin is so low that recovery becomes impossible without applying to the minister.

In conclusion, the committee has an ominous task before it in reviewing the many deputations and making amendments to the bill, while at the same time trying not to compromise the accord between the landlords and the tenants. The

Toronto Real Estate Board believes it is very difficult to create on paper a system that replaces the free market. Bill 51 tries to do just that, and therefore there will always be areas in which it falls short.

The solution is not more regulation but the gradual phasing out of rent review and the phasing in of a housing policy geared only to those most in need of help.

If there are any questions you want to ask about the board's position, I will be pleased to answer them.

Mr. Chairman: Thank you. I have one short question. On page 8 of your brief, you talk about the maintenance standards and you make the point, "It is possible that politicians, bowing to tenant pressures, could be overzealous in their search for possible violations." Are you referring to the municipal politicians who would be directing the municipal inspectors? I do not quite understand your point there as to how the politicians be involved.

Mr. Brooks: I am talking about all politicians. We are talking about all politicians.

Mr. Chairman: I do not understand the role in the violations.

Mr. Brooks: We do not differentiate on politicians; maybe we should but we do not.

Mr. Chairman: A politician is a politician.

Mr. Brooks: Right.

Ms. E. J. Smith: On the same score, you said that what you do not like about the Residential Rental Standards Board is that you see politicians interfering. I guess the way politicians would get to interfere would be mostly on the basis of complaints from people in the riding.

Assuming that standards should exist--we have standards at one level now for health and we have building standards--are you opposed to having these increased standards or are you opposed to the way it is visualized they be enforced because they use the city? What would you suggest as a better way of enforcing them?

A lot of this is still being looked at by the committee. I think it is important that you get your thoughts out as to how they should be enforced, because it is not yet all in place.

Mr. Brooks: In answer to your question, we do not want to get involved with technical discussions regarding maintenance standards and the process thereof.

Ms. E. J. Smith: You addressed them in your brief.

Mr. Brooks: If you want a technical answer, we will be obliged to supply you with an answer in writing.

Ms. E. J. Smith: You did mention them in your brief. I was referring to your brief.

Mr. Brooks: Yes, I know you were.



Ms. E. J. Smith: In effect, you do not agree with what has so far been suggested, but you do not have any better suggestions.

Mr. Brooks: We have better suggestions and if you like, we will submit the better suggestions in the form of a letter to the committee. I do not want to take the committee's time in getting involved with discussions on technical compliance with maintenance standards, or we will be here all afternoon. None of us wants that.

Ms. E. J. Smith: I point out this is the time to do so because this is being considered by RRAC.

Mr. Brooks: I understood we were given half an hour, so I thought it would be wise not to get into that.

Ms. E. J. Smith: That is fine. I recommend you do so.

Mr. Reville: On the same matter of maintenance standards that you refer to on page 8, the provision is subsection 15(5) of the bill. The government has indicated it is going to introduce amendments that will add two more levels of penalties for landlords who do not comply with the orders of the Residential Rental Standards Board. Were you aware of that?

Mr. Brooks: Some of it, yes.

Mr. Reville: I take it then that your comments apply to any level of penalty connected with the rent increase?

Mr. Brooks: I think you are referring to the recommendations of RRAC, are you not?

Mr. Reville: The ministry has indicated it is going to amend the legislation before us to add two levels of penalty. I cannot remember whether that ties in with what RRAC said.

Mr. Brooks: If the committee in its wisdom were to approve the accord that the landlords and tenants laboriously came to after about three or four months of hard negotiations--these people are more concerned and affected by rent review than, and I say this respectfully, anybody with this committee, including myself--if you wish to endorse the recommendation of RRAC, including its suggestion with regard to the process on maintenance standards, we have no objection, but we do not think it is fair to take that out of context and change it without approving the rest of the recommendations.

Mr. Reville: Your thesis is that we should preserve the delicate balance?

Mr. Brooks: If landlords and tenants by some miracle were able to come to an agreement--I do not know how this miracle came about, but it did actually happen; there were 18 committee members, and they came to an agreement--I think this committee should respect their wishes, irrespective of the fact that we are against rent review, period. We are against rent control. At least they got together and came to an agreement, and I hope this committee does not decide to chop up the agreement and nullify its whole effect. I speak for myself personally. I do not speak for the board now, but if they did it, I suggest the government withdraw the bill. What is the point?

Mr. Reville: I too think it would probably be a good idea if the government withdrew the bill.

Mr. Brooks: I think the government should withdraw the bill, take all the depositions you are going to have--you have 140--and send the bill back to the Rent Review Advisory Committee. It is supposed to meet every three years. Send the depositions back to the committee to see whether it can make heads or tails of all the material and see if committee members can come to a new agreement. Then I suggest you bring it to the House and say, "Take it or leave it."

14:20

Mr. Reville: The wonder of the miracle of the Rent Review Advisory Committee does not seem to be shared by very many. The landlords and tenants who have come before us have serious objections to what RRAC has done, and yesterday the Federation of Metro Tenants' Associations delivered a scathing attack on every section of this bill. Were you aware of that?

Mr. Brooks: Their scathing attack does not concern me. I am concerned about the agreement the nine tenant representatives and the nine landlord representatives came to. They are representatives of responsible groups throughout the province and they are knowledgeable in all aspects of rent control and rent review. It took them three or four months to come to an agreement, and this agreement was simply a compromise. You know yourself that any time you come to a compromise with your wife, you are not completely happy.

Mr. Reville: I am always happy when I reach a compromise with my wife. I am delighted when I reach a compromise--

Mr. Brooks: Just allow me to finish, please. If you have a compromise, you are not going to come away from the compromise completely happy--I will not--but you have got a compromise. You have got something that you are going to try to live with. It is not going to make you happy. The agreement that we have between the landlords and tenants is not perfect. It does not make landlords happy. Do not kid yourself. Landlords will not be happy until we get rid of this damned rent control.

Mr. Reville: I understand that.

Mr. Brooks: I hope we will some day because rent control is not helping the people it is supposed to help, who are the poor people, the needy people. We have solutions for that if somebody will listen.

Mr. Reville: The tenants' groups who have appeared before us--

Mr. Brooks: The tenants' group and the landlords' group came to an agreement. If the committee is going to slice up the agreement and nullify the whole thing, if I were the government, I would just withdraw it. What is the point? You have destroyed all the trust that was built up over four months. I do not know of any landlord who agrees with that agreement, and probably there are not any tenants who agree with it either. I am not surprised at anything the Federation of Metro Tenants' Associations would say or any other tenant, because it is a compromise. If you are not prepared to compromise, we are going to have this continual antagonism going on and on.

Maybe there are people in our society who do not want an agreement. They like this controversy. I hope you are not one of them.

Mr. Reville: The tenants who have spoken to us indicate that in the process that went on the tenant representatives who achieved the compromise

had no authority to do that basically and the tenants at large do not support this package.

Mr. Brooks: You can say anything you want to me about what the tenants think or do because you are a little more familiar with their position than I am.

Mr. Reville: I am fairly familiar with your position too. I have followed it over the years. We are having landlords coming to us and saying much as you have said; so we are very clear about the positions.

What I was curious about was why you placed so much reliance on the compromise that was achieved by the members of the Rent Review Advisory Committee.

Mr. Brooks: The reason is it was a miracle that they agreed on anything, and it took them about four months. I do not think you should sit here and criticize the capabilities of the tenant representatives--

Mr. Reville: I am not criticizing the capabilities of anyone.

Mr. Brooks: --because the tenant representatives on that committee were some of the most extreme activists for tenants' rights in this province. You cannot deny that.

Mr. Reville: I probably know all those activists much better than you do. I do not denigrate the work they did at all. What I was trying to get from you is why you were so excited about this miracle and why you think the committee should eat that compromise. That is the question.

Mr. Brooks: I just told you it is because the landlords and tenants agreed.

Mr. Reville: I do not have anything further.

Mr. Davis: On page 9 of your brief, you point out to us that some landlords suffering financial loss may not have sufficient funds to obtain the financing necessary to carry out the required maintenance. Therefore, you state your organization believes they should not be prohibited from applying for rent review as a result of noncompliance with maintenance standards. Are there many landlords in that kind of position?

Mr. Brooks: I believe there are. I think when you receive the brief from the Multiple Dwelling Standards Association, they probably go into more detail on that aspect than we could. We are firmly convinced that there are.

Mr. Davis: Mr. Chairman, through you to the minister, who probably would wish to consult with his staff, if that is going to be a problem, how does Bill 51 deal with it?

Hon. Mr. Curling: I presume you are making reference to the chronically depressed rents. As the gentleman said earlier, we recognized in my statement that there are landlords who are facing some problems in the sense of not getting a return on their investment. We have addressed that in the bill. If you want some specifics, we can ask them to go through it.

Mr. Davis: I am really after the fact that in Bill 51 landlords can now be prohibited from increasing their rents because of noncompliance with



maintenance standards. The delegation before us has indicated that there are a number of landlords--from one to infinity, I guess--who will find themselves suffering from financial loss and who will not be able to do the maintenance. Their suggestion is that noncompliance should not prevent a landlord from applying for rent increases in order for him to do the necessary repairs. For clarification, is there anything in the bill or was there anything in the discussions that dealt with that issue? I cannot remember. Perhaps your staff can help us.

Mr. Church: There is a provision permitting the minister to allow an application in circumstances that he deems appropriate. The circumstances will be laid out by regulation. Specifically, the committee had in mind the ones mentioned where, to do the repair, cash flow is required in advance or advance approval of rent is required to get a loan. Those are the circumstances that are expected.

Mr. Pierce: Mr. Brooks, on page 2 you make it quite clear that the real estate board is against any system of rent review and, I assume, of rent controls as well. Is that right?

Mr. Brooks: It is just a play on words. We think they both mean the same thing.

Mr. Pierce: Can you give me a bit of a history of the real estate board? Do you deal in rental properties? Do your members rent out properties?

Mr. Brooks: We have about 17,000 members. Obviously, some of our members deal in rental properties. The proportion is not very great, but we do deal in rental properties.

Mr. Epp: Excuse me. I think there is a clarification. Individual members may deal with properties. Is that not correct?

Mr. Brooks: Yes, not the board.

Mr. Epp: The board in its entirety does not deal with rental property. As I understand it, the Toronto Real Estate Board would not buy properties but individual members would have properties.

Mr. Brooks: Yes. I am sorry. When you said the board, I thought you meant individual members. Mr. Epp is quite correct.

Mr. Pierce: Again, it is the use of words.

Mr. Brooks: Individual members have individual concerns with the real estate business. Our position on rent controls is that we do not think the people who need to be helped are being helped at all. We think the middle class is being helped. We think that if you want to help the people who need it, a system of shelter allowances paid by the government directly to the tenants would overcome the problem immediately. There have been surveys on it. It is not that inexpensive. It is not cheap. I speak personally now; I am not speaking for the board. It certainly would not cost the Ontario government that much money to institute a system of shelter allowances. These people could be assisted by the government directly.

We have a situation right now with a low vacancy rate of less than one per cent. If we compare, the national vacancy rate in the United States is seven per cent. We have this ludicrous situation here where the people who

really need to be helped are not being helped. If the government were to make up the difference between the economic rent needy people can pay and what the market demands, we think the problem would be solved overnight. It is my personal opinion that these great lists of people you read about would vanish overnight. At least the taxpayers at large would be paying to help people who really need help. Most people in rent-controlled buildings do not need help. A lot of them do--there is no getting around that--but most of them do not. They are selling new houses left and right.

14:30

Mr. Pierce: Is it the feeling of the board that, as a result of rent controls, there are a number of people in apartment buildings who should not be there or have the financial means to be out in single-family dwellings or in a much better apartment dwelling?

Mr. Brooks: Absolutely. We have daughters and sons of members of our committee who have sons and daughters living in a rent-controlled building, and they do not want to move because they feel the cost of owning a house is more than their rent-controlled apartment; so why should they move? They are just sitting there. Some of them get smart and actually buy and get into the mainstream of things because they think people who own property are part of the system. We think in the long run they are going to be happier, and if they are happier, they are better citizens.

Mr. Pierce: At the same time, in your submission it is the feeling of your board that you support Bill 51 with some revisions.

Mr. Brooks: Yes. Our basic position is that we support Bill 51. We support the government's position. We say the bill is far from perfect. There are lots of things wrong with it, because it is a compromise. We do not know any landlords who think the bill is super-duper and they accept it. There are not too many tenants around who agree with it completely either, because it is a compromise. Any time you have a compromise, you go away from it, shrug your shoulders and say, "I did not get what I wanted, but we got something done."

Mr. Pierce: Can you give me a definition of something in Bill 51 that would indicate to you and your board members that landlords will start building again and that there will be accessibility for tenants to affordable housing?

Mr. Brooks: I do not have the figures in front of me, but as I recall, under the Rent Review Advisory Committee recommendations, the landlords said that the rate of return should be a certain percentage over the Canada savings bond.

Mr. Pierce: One per cent over the Canada savings bond.

Mr. Brooks: I thought it was one per cent. What the landlords are saying is that if the rate of return guaranteed to them was one per cent over the Canada savings bond rate, they would start building again. If they say that, who am I to disbelieve them? Who in this room is to disbelieve them? In effect, they are saying that if the bill passes in the way it is proposed as a total package, they will start building again, even though they are against rent review. People are working until it is eliminated.

Mr. Pierce: Could you give me a ball-park figure of what the investment return is on condominium development and single-family housing to a developer?

Mr. Brooks: I do not understand your question.

Mr. Pierce: If a developer built 100 condo units and sold them, what would his return on investment be?

Mr. Brooks: I do not have a clue what his return would be, because you are talking about a different thing from an investment income. You are talking about a speculative sales venture and sometimes, as happened quite recently, builders lose money. They do not always make money. Some of them originally sold too cheaply and some of them went broke because the subtrades were increasing their prices. I cannot tell you how much profit the builders are making on the sale of new houses or new condos. The only one who could tell you that would be the Department of National Revenue, I suppose.

Mr. Cordiano: I refer you to page 6, where you talk about hardship relief for landlords. You point out that two per cent of the balance is minimal at best. Of course, that two per cent is over a period of time. I want to point that out and ask what your comments would be, given that it is over a period exceeding one year. I do not think it was determined. I do not think the bill says it is for a one-year period. I think it would be an extended time. From Mr. Church, we can get the exact amount of time the hardship relief would be allowed and for what period that would be extended.

Mr. Church: There are two separate methods that the second hardship relief clause applies in circumstances where they do not qualify for chronically depressed rents. It is a once-only application. It is a two per cent increment on rents, based on a landlord who finds himself in a position where he is more than breaking even. His rents are not more than 20 per cent below market value, but he earns no return and that is when the hardship relief provision, which is in the present legislation, continues on in the new legislation.

Mr. Cordiano: Is that for a one-year period?

Mr. Church: No. It is a one-time-only addition to the base and then it remains permanently--

Mr. Cordiano: It remains a permanent feature; so it is for an extended period. That is what I am saying.

Mr. Church: Yes. The two per cent stays on basically for ever but it does not increment every year.

Mr. Cordiano: But it is on the base of the rent. That is what you are considering. That was the first point. I would also like your comments on the date of November 1, 1982. If you owned a building prior to that you could apply for hardship relief, and if you purchased the building after that, you would not be eligible to apply for that hardship relief for a pre-1976 building.

I do not understand why that would be a major issue. The fact is that there was a cutoff point. I have to get some clarification from the ministry on that, and I would like to hear Mr. Brooks' comments after we hear from the ministry.

Mr. Church: The principal reason for the date is that was the date upon which the major change was made in the legislation to slow down the pass-through of financing loss after resale. The assumption is that any



purchase made by a willing buyer and a willing seller after that date took into account the new revenue-flow rules and that was effective in the price paid for the units. There will have been people who bought or sold in ignorance of the law, but the committee did not feel it was its job to make up for people who function in the market unwisely.

Mr. Cordiano: Mr. Brooks, any new comments?

Mr. Brooks: That is a technical explanation and I would accept Mr. Church's explanation. We do not place great stress on that. It is just that we think we can criticize the bill because there are certain things here that we think are just unfair. When we look at the whole package, if the committee in its wisdom would accept the principle of the Rent Review Advisory Committee's accord, even though we are against rent review, it would at least be a positive step. However, as I said before, if the thing is going to get cut up into many pieces, I do not agree. I think the accord that we have now would be destroyed, and that would be a tragedy.

Mr. Cordiano: Do you agree with the explanation given, that there is a reason for that date? It is not just arbitrary.

Mr. Brooks: Yes. It helps to clarify it.

Mr. Cordiano: I have one final question on a slightly different topic. Given the fact that we have a building boom in and around Metro Toronto and probably throughout the province, does the Toronto Real Estate Board have figures on first-time new home buyers?

First, do you have those figures and, second, if you do, what can you tell us about those first-time new home buyers? Were they apartment dwellers before that? Is there a significant number of them who used to live in apartment buildings? Or are they simply coming from different areas of the city where they used to own homes or lived with other relatives, etc.? What were their conditions like prior to buying that home and as a first-time buyer?

Mr. Brooks: That is a very interesting question. We do not have figures on first-time new home buyers because, basically speaking, we do not deal in new homes. The Toronto Home Builders Association could supply you with that information.

2:40 p.m.

Resale homes make up a bigger segment of the market than new homes. As far as they are concerned, we are of the opinion that a substantial number of first-time home buyers are now getting into the market. These are young married couples.

There are lots of starter resale homes. By "starter," I mean a home listed for less than \$90,000 in our multiple listing service. We find quite a large proportion of those buyers are first-time home buyers. They are moving out of their parents' homes and getting married, or perhaps two or three girls are sharing an apartment and one gets married. They start with lower-priced units.

We have lots of units on our MLS system that are available right now for less than \$90,000. A substantial number of those buyers are first-time home buyers. In fact, I sold two last week.

Mr. Cordiano: Are former apartment dwellers now purchasing what you would term starter homes? Is there any way of determining that?

Mr. Brooks: Yes, a substantial number of them are purchasing homes. I guess many people have seen the light: you will not be getting anyplace by paying rent for ever; to participate in the action and get in on the free enterprise system, you have to become an owner. Until you become an owner, you are not in the mainstream. That is the way it is.

Mr. Cordiano: You are noticing a significant number of people, then. There are obviously more than in other years.

Mr. Brooks: Yes, there are. The way the market is going, it is obvious to most people who own property that owning property is one really good investment.

Mr. Cordiano: I would like to see those figures, if you could make them available to us.

Mr. Brooks: We are in the process of assembling those now, because it is a matter of concern to us; we would like to know. It might take a little while.

Mr. Cordiano: Thanks.

Mr. Ramsay: It is interesting to hear your bias towards ownership, Mr. Brooks, and your thought that ownership means getting into the mainstream and entering the free enterprise system.

In my limited experience since having been elected, and living in Toronto as an apartment dweller, I feel many people in the city choose to be apartment dwellers not just for economic reasons but for lifestyle reasons. They do not want the responsibility of home ownership. I would not say it is always because people cannot afford it. I wish there were more affordable housing, however. It is my desire that everybody who wants a home be able to afford one. That is probably one of our challenges.

I would like to talk to you about the shelter allowance idea you brought forth. I am pleased to see that you are concerned about people who are disadvantaged and cannot afford housing.

When you do bring in a shelter allowance, however, and you want grants deregulated at the same time, you are going to interfere with the market. From the other point of view, by subsidizing the tenant directly with money that can be used for housing, it would seem to be human nature to take advantage of that; there is now more money available to charge as rent and, therefore, the rents will just go up.

What would be the control mechanism if we deregulated it and, at the same time, brought in a shelter allowance?

Mr. Brooks: The only fair method would be to phase it in over a considerable period of time.

Again, I am speaking personally here, not for the board. On the other hand, maybe that is why the board sent me here. As our situation is right now, however, you cannot eliminate rent controls immediately; it has to be done over a period of time. Otherwise, we would have too much disruption in the marketplace.

If the government in its wisdom some time in the future agreed to eliminate rent controls, we are not suggesting for one minute, that it be done overnight. Personally, I think it should be done over a period of time so that people do not get hurt and so that they become accustomed to the new situation.

We could bring in shelter allowances without eliminating rent controls. I think that is the way it should go. But once you bring in shelter allowances, after a period of time the obvious conclusion is going to be, "We do not really need rent controls."

We are not suggesting that you eliminate rent controls before we get shelter allowances. We are suggesting that we get shelter allowances now, and then let us decide later whether we can phase out rent controls over a reasonable period of time; it may be one, five or even 10 years, but something that is not going to disrupt the marketplace. In the meantime, at least with shelter allowances these needy people could be helped out. It could work very effectively, something like the baby bonus, where the cheque is sent directly from the government.

The Ontario Home Builders' Association has a study on shelter allowances. The brief has been submitted to the previous Ontario government and to the federal government, and the cost is not that much. It would be a lot better than the system we have now. We have cases where we are getting into key money now, and poor or needy people cannot afford key money. It is not a good situation out there.

If the free market were allowed to operate, we would probably get into a situation where the builders go out to build so damned many apartments that they are going to have to offer three, four or five months' free in order to get them, the way it used to be. Right now you have discouraged them.

The way to get rents down is to create a surplus. Rent control does not create a surplus; it creates a shortage. There is a seven per cent vacancy rate in the United States. Why does not somebody study the American system? Our vacancy rate is ridiculous. There is no sensible reason for it except politics. Maybe that is why we are all here. Economics and politics sometimes do not mix.

Mr. Chairman: That is certainly why we are here.

Mr.-Brooks: That was no aspersion on anybody.

Mr. Chairman: No. Are there other questions of Mr. Brooks? If not, thank you for bringing the views of the Toronto Real Estate Board to the committee. We appreciate your presence here.

Mr. Brooks: Thank you.

Mr. Chairman: The next presentation is by Mr. Valeri. Is Mr. Valeri in the room? I do not think he is here yet.

We have no control over whether people come who say they are going to come. We will recess until three o'clock and assume that Mr. Valeri will be here at that point.

The committee recessed at 2:48 p.m.



Mr. Chairman: Mr. Valeri has not shown up, so the earliest we will commence is 3:30 p.m.

Mr. Reville: God save the Queen.

The committee recessed at 3:09 p.m.

15:34

Mr. Chairman: The next presentation is by Helen Probert, who, I believe, is here somewhere. Will you have a seat at the table and make yourself comfortable. We welcome you to the committee and we look forward to hearing your views.

MRS. HELEN PROBERT

Mrs. Probert: Thank you. As you just heard, I am Helen Probert. I am the wife of the owner of a 54-unit apartment building in Hamilton, which I also manage. I am also a member of the Hamilton Apartment Association and the Fair Rental Policy Organization of Ontario. I came here to represent these organizations and myself. As well, I want to represent the small landlords outside Toronto and to refute Mary Hogan's oft-repeated remark on television that landlords must be well off because few appeared at the landlord-tenant hearings earlier this year. I heard her say that several times and I have always wanted to answer her back.

Many landlords I know in Hamilton are average, middle-class families trying to make a small profit on a small business basis. Many are live-in owners and many have language and accent difficulties. Some of them have come from the old country, either first or second generation, and are apprehensive at appearing before rent review, let alone before the big guns in Toronto. I do not think people realize how difficult it is for these people to appear at a hearing like this.

Our personal situation is that in 1971 we invested approximately \$150,000, which was our life savings for retirement since we came back from overseas, to buy the 54-unit apartment at approximately \$660,000. During the first five years, our second mortgage was coming due and interest rates were rising, so we paid off \$90,000 of that mortgage out of our own money, besides what was paid off out of rent. At the end of the five years we had paid off the second mortgage completely. That was a total investment of \$240,000.

I have calculated our rental loss since the 1976 rent controls. Our losses per year averaged \$1,952. That is before any depreciation or capital cost allowance. We have not made a cent on that building and we have had to put in nearly \$20,000 of our own money to make up the deficit. Until this year, there have been no buyers at a price to allow us a profit. This is fairly common in Hamilton and, I imagine, in areas outside Hamilton.

All this, even though we have an excellent superintendent, who does most of the repairs, except plastering, electrical wiring and major plumbing. He does the painting and everything else, is on full-time salary and has good relations with the tenants. When we went to rent review, Mr. Little praised our building maintenance and low repair costs. He said it was outstanding in that area. Our rents average \$325 for a one-bedroom apartment and \$380 for a two-bedroom apartment.

Does anybody want to ask any questions in the meantime or shall I just keep going?

Mr. Chairman: I think it is best that you keep going, Mrs. Probert. At the end, if there are any questions, we will collect them.

Mrs. Probert: The current rental problem and Bill 51 seem to us to be based in Toronto, where the concept of the large, multi-unit, absentee landlord exists, the selfish and gouging landlord. Most other Ontario areas, including Hamilton, do not abound in these multi-unit owners who can spread costs around. The small one- or two-building owner cannot do this. Mr. Weisz, who was here a couple of days ago, is one of the few multi-unit owners in Hamilton.

In regard to the rate of return, rents in Toronto are at least double those in many other areas. Our rents average \$350 for one and two bedrooms. The tops in Hamilton, I am told, is \$440 approximately. In Toronto, although varying widely, advertised rents recently ran around \$700 and up for one- and two-bedroom apartments. This difference exists even though costs remain roughly the same across the province. For example, labour, material for repairs, wages, utilities such as gas, heating and hydro, must all be roughly the same across the province.

15:40

This difference in the reality of rental income and cost between Toronto and the rest of Ontario seems to be ignored in all the complex formulae for costs passed through, costs no longer borne, building operating cost index, etc. Politicians assume that owners must be making a profit or they would get out. Many, including Cadillac-Fairview and others in Hamilton, are getting out. The apartment next to us has been sold five times. The bottom line is that we may get out too. We are still considering it.

No allowance is made in Bill 51 for the starting differences in rental base 10 years ago. This difference gets increasingly greater even though costs are much the same for everyone. I was figuring it out. Starting in 1976 with a rental base of \$200, which would have been Hamilton's situation, the allowed increase was six per cent and then four per cent. This results in a rent of \$351 in 1986. If you take the \$400 base, which is probably about what Toronto had in 1976, the allowed increases result in a rent of \$703 in 1986. With a starting difference of \$200 in rent per unit, the difference becomes \$352 now. This will get increasingly worse as the figures pile up. In other words, Toronto, starting at \$400, has added \$152 more rent per unit than Hamilton, starting at \$200. I repeat, costs remain much the same everywhere.

It follows that chronically depressed units must be defined to help small owners who are making very low, if any, profits or they will get out at any cost, which will further reduce the amount of low-rental housing. The trickle-down theory is hard to apply in areas such as Hamilton where no one is building apartments of any kind, let alone at rents of \$750 and more per month. As I said, \$440 is about tops for two-bedroom apartments. I understand that to put a new unit on the market in an area such as Hamilton would take a rent of \$700 per unit. We are just not getting that amount in Hamilton.

With regard to costs no longer borne, capital investments such as roofs, fire alarm systems and parking lot resurfacing do not last as long as calculated and often have to be replaced at an inflated cost before they are

written off, which is not considered in Bill 51. Moreover, the owner has to find total cost coverage up front, which is often very difficult and a hardship for the small landlord. Therefore, replacements should not be discounted as proposed. An owner is not going to rush to rent review every time he has to make a capital replacement, which seems to be the assumption in the formula that has been produced. Moreover, it is desirable to provide some incentive to small landlords to go for needed capital improvements. This bill does not seem to provide much incentive.

As for maintenance, we have no quarrel with setting standards, as long as costs are realistically assessed in relation to rents in all areas of the province. The rent registry should not be retroactive past August 1985, nor should landlords be responsible for previous landlords' acts. What is done is past, and the small help a few truly needy tenants might get should be weighed against uncalled for hardship to innocent new owners and the bad relations fostered by a possible witchhunt into the past. We need better, not worse, relations between landlords and tenants. The registry itself will cost millions of dollars, millions of hassles and another bureaucracy. For the possible number of abuses, the cost is not justified.

The whole concept of retroactivity upsets owners' budgets, loan arrangements, etc., leading to an increased fear to invest because one cannot count on any stability in the future. In 1985, we had to refund six months' rents. Although it was not too much of a hardship, it was a great nuisance and could have been a hardship for some. We knew it was coming and there it was.

On equalization, in our case when controls came in, small rent reductions to a few pensioners, which we had allowed before 1976, became frozen with controls. Over 10 years, the gap has increased to a total \$80-per-month loss, nearly \$1,000 a year, even though the pensioners are not there now and we have new tenants who could equally well pay the same rent as everyone else.

We asked rent review for equalization and although we got the total asked, equalization was denied and the unfair difference remained. The amount was added on to the rents of the tenants who were already paying the higher rents. I am sure tenants also want equal or fair rents. The whole weight of political opinion now supports tenants at the expense of owners, who seem to get little sympathy or consideration.

There are some further problems for owners. Back rent cannot be collected from anyone on disability, welfare, mother's allowance, workers' compensation, unemployment insurance, etc. There is no recourse if tenants refuse to pay. In these cases, owners should be able to get rent paid directly to them. It is hard to believe how many tenants leave owing money. Unfortunately, a lot are on mother's allowance. We had a woman on mother's allowance who was sort of a mental case. She was a nervous type and she asked to stay on. She kept saying she would pay and she paid a little bit.

Finally, she did get another place to go to that was cheaper and left owing us \$1,000. She said she would send it to us as soon as she could but she never did. Surely there is some way for the rent of tenants who are not paying back rent and who are falling behind because they are on welfare, mother's allowance and so forth to be paid directly to the landlord. There is no other way landlords can get it. Some years, the outstanding debts are horrendous.



Evictions for legitimate reasons are very difficult to get. Our superintendent has spent a long time in court and the case has been thrown out because the date was in the wrong place and he has had to go back and change things. Then they bring out a new form. He is a good superintendent but he gets very frustrated. These are legitimate reasons for tenant eviction--disturbing the peace, drunkenness and so forth. They are not frivolous throwouts, which we have never done.

Damages are rampant. Our elevator buttons have been punched out, hall mirrors broken, forbidden items flushed down the toilet resulting in flooding in the apartments below or in the basement. We just had a bad flood in the basement, several inches deep, which was a real mess, from something being thrown down the toilet. Our front door was recently kicked in by a drunken pensioner.

Notwithstanding, our tenants are basically good. We do not have any quarrel with 99 per cent of them. This month, when our superintendent was in hospital, several helped out with cleaning the halls and looking after the building and they were very good. They also supported us at a rent review hearing. Believe it or not, three of them spoke in favour of the building and the way it was maintained, which flabbergasted Mr. Allen, who was there speaking for the tenants.

Tenant consultation was suggested regarding repairs and improvements. How can tenants weigh the various merits of what improvements are or are not financially possible and what are necessary or only frivolous? This would prove a nightmare of an owner-tenant debate. A better way is to provide incentives to owners by providing a fair return on investment. We have always felt that it was necessary to keep the building up for the tenants and for the sake of the building. We have always done all the repairs that were needed.

15:50

Cutting back on rent increases in times of high inflation, which I must admit I do not really understand, will be very hard on small owners. If the rent increase is cut back during high inflation, the only person who is left to cope with it is the owner. A stable formula will even out the hazards of inflationary swings and give owners some security.

In summary, current and proposed rent control policies result in:

1. Resales: Owners find they cannot make a fair profit on their investment. As I said, I know of several sales, including the building next to us, which has just been sold five times. This results in added financial costs, among other problems.

2. Little or no new construction; that is very evident.

3. Very low vacancy rates; that is also very evident.

4. Under-the-table charges to help make up for low rentals because owners are not able to get fair investment return in the normal way. We heard of a woman who is going to be charged \$100 under the table to stay on in her apartment because the owner who just bought the building could not make a fair return on the rent he was getting.

5. Tenants who can afford higher rents are being subsidized by the landlords. Why should landlords subsidize people who can well afford to pay a

higher rent just for the sake of those who cannot? For example, a lot of people in Hamilton can afford a higher rent than \$350 to \$440 for a two-bedroom apartment.

6. Increasing controls to cover luxury apartments will result in further subsidies to high-income people by the hapless owners.

As far as I can see, the remedy is rental subsidies only to really needy people. I am treasurer on the board of Urban Native Homes in Hamilton, which is subsidized housing for native people. Our rents are set at 25 per cent of total family income. The rent is subsidized by government through Canada Mortgage and Housing Corp. It seems to work out very well. The tenants report if they have any change in income and their rent is adjusted accordingly. The houses are rented only to low-income native people. We have 76 houses now and we are getting 25 more. It is quite a project. If this could be done on a wider basis, it would result in stability and a fair return to owners.

Bill 51 as originally agreed to was the minimum that landlords could accept in return for some security. If it is altered as proposed in the parliamentary debate so far, it will become impossible to invest in rental accommodation, and the vacancy rate will remain at its current low state. Personally, if this happens, we will finally sell our own building. The only way to get any return on our 15-year-old investment is through a capital gain, which this year finally seems possible. That is our bottom line, although I do not like to think of selling the building because I have enjoyed looking after it.

Mr. Chairman: Thank you for your presentation. There are some questions by members.

Mr. Ramsay: Mrs. Probert, would the different formulas in Bill 51 make it possible for you to make a profit on your rents on your building now? If this became law and were applied to your building, would the rents now become profitable?

Mrs. Probert: Do you mean as it stands right now?

Mr. Ramsay: Yes.

Mrs. Probert: I think so, if it does not become more complicated with some of these exotic formulas such as "cost no longer borne" and so forth. I do not really understand "cost no longer borne," because it assumes that every time you put on a new roof or do some major improvement, you are going to go to rent review; otherwise it does not apply, does it? It only applies if you are applying for an increase in rent. If you have a roof and you go to rent review and get that incorporated in your rents, then the next time you have to reroof, you are not going to raise your rent again an extra amount for the new roof. It is just going to be absorbed in the rents.

Mr. Davis: The ministry can answer that.

Mr. Church: Indeed, you are quite right. If you do not go back to rent review, under the costs-no-longer-borne provision for capital, you would not automatically have the 80 per cent taken out of your capital base. However, you could be taken back to rent review by your tenants, or you could choose to go back so that you could demonstrate that all you were doing was maintaining your capital base. If you did, as you suggest, maintain your capital base and not adjust it, there would be a subtraction out and an addition back in and you would still come out more or less even.

Mr. Davis: This is to the assistant deputy minister for clarification. If I understood that correctly, it means any landlord who makes a capital expense would be required, if he wants to recoup it, to go to rent review.

Mr. Church: No. If you go to rent review and use your capital expenditure as a cause for raising rents, then when that capital expenditure is fully amortized, the rents will be reduced back down by 80 per cent. However, that will usually coincide with an application to reamortize again by doing a new improvement, because the amortization schedules fit the average deterioration. As the witness is suggesting, that would just mean replacing the asset and maintaining your rent schedule. That is the effect of costs no longer borne.

Some operators, however, were multiplying or adding frequently to their base by replacing the asset frequently and amortizing quickly. That will be prohibited by the costs-no-longer-borne mechanism.

Mrs. Probert: In other words, if you can incorporate it in without going to rent review, there is no problem, except for financing it?

Mr. Church: That is right. If you can, in the normal course of your operations, finance it and raise them at a rate that fits within the guideline, then you will not be affected one way or the other. For most improvements, that is probably going to be possible.

Mrs. Probert: I do not know about Toronto, but I cannot see people rushing to rent review. I know people in Hamilton, these small owners, have an abhorrence to going to rent review. Some of them ask, "Have you been to rent review?" and they are appalled to think that somebody got there.

Do you not think there is a difference from the rental position in Toronto? There are a lot of small landlords in Toronto, I am sure, but there are an awful lot of large absentee landlords who seem to be the cause of this problem with Bill 51, whereas in Hamilton they are mostly just small business people trying to make a living out of their apartments.

I know what a hard time we have had, and we have been lucky enough to have some of our own money to put in. That is no exaggeration. That was our loss, and that was before any depreciation. In some years we do have a couple of thousand dollars' gain, and in other years we have a larger loss. Back at the beginning, shortly after 1976, we had a large number of vacancies. Out of 54 units, we would have 10 or 12 vacancies. Of course, now we have about one vacancy a month, which is about a minimum. That is about a two per cent vacancy rate, which is a little bit better than your 0.4 per cent.

Mr. Pierce: Mrs. Probert, on page 5 you have indicated some problems you have with respect to collecting or being able to collect rents from some types of tenants, namely, people on mother's allowance, welfare, workers' compensation, unemployment insurance, etc.

Mrs. Probert: Yes. I hate to say it, but it mostly seems to be mother's allowance. I do not know why. They often do have a boyfriend, and I do not know what happens, but they get behind and the boyfriends often punch out the elevator buttons. There is just something weird in the building.

Mr. Pierce: I do not want to get into that part of it.

Mrs. Probert: No, I know.



16:00

Mr. Pierce: The part I am concerned about is that if you are having a financial loss in respect of tenants who are in the building, then it is conceivable the other tenants in the building are going to have to pick up that loss.

Mrs. Probert: No, unless we go to rent review, which we are not planning to do.

Mr. Pierce: That is what I mean.

Mrs. Probert: We are not planning to go to rent review in the foreseeable future.

Mr. Pierce: You are prepared to accept that as a loss and to try to keep as many mothers who are on mother's allowance as possible out of your apartment?

Mrs. Probert: This past year was better. If Bill 51 does not--I do not know what the percentage will be; will it be five per cent, or what will it be? That is not as bad as four per cent. That will make some difference.

Mr. Pierce: As a landlord, do you see some light at the end of the tunnel with Bill 51? Will it keep you in the business of being a landlord?

Mrs. Probert: If it is not changed too much; if it comes through the way the landlord and tenant committee agreed to or compromised on. I myself have not read through the bill. I read a synopsis of it. I am not really an expert on all the ramifications.

Mr. Pierce: You have indicated real concern that the bill is being drafted to satisfy the needs of Toronto and not the needs of Ontario.

Mrs. Probert: Right.

Mr. Pierce: I can see from your presentation that is the major concern you have as an owner of apartment buildings outside the city of Toronto.

Mrs. Probert: Yes. I have been very frustrated about that, and so have other people. Everything seems to be based on Toronto. The opinion is rife in Hamilton that Toronto does not even know we exist.

Mr. Jackson: Except during football season.

Mr. Pierce: There are other centres outside Toronto that nobody knows exist.

Mrs. Probert: I know there are other areas. That is what happened in the doctors' dilemma too. Everything seemed to be based on Toronto because Toronto is where the extra billing was, not anywhere else, or not as much anywhere else. Hamilton had only a very small amount of extra billing.

Mr. Pierce: A number of the presentations that have been made before this committee, both by landlords' and by tenants' groups, indicate they do not believe there is any compassion left in landlords with respect to tenants. They are out there to gouge the tenants, take what they can as quickly as possible and fill up their socks with money.

Mrs. Probert: I know there is that opinion around. They may get it from the big absentee landlords who have big buildings. If they lose a little bit on one place, they can make it up some place else.

Mr. Chairman: Are you implying that there are no solicitous landlords left?

Mr. Jackson: That would be like saying all politicians are fair.

Mr. Chairman: Do not interject.

Mrs. Probert: We had six apartments at the beginning of rent control on which we allowed reductions of \$5 or \$10 because the tenants were pensioners, or one might have been on mother's allowance. That got frozen in. That means on those apartments, which are no longer occupied by pensioners, we now lose \$1,000 a year.

Mr. Pierce: With the rent registry under Bill 51, those rents are locked in again as of August 1985.

Mrs. Probert: Right.

Mr. Pierce: Where you may have been compassionate for the past eight years, you will now be less compassionate but you will be compelled to live with those rents.

Mrs. Probert: Right. It is not fair if a person discovers that somebody right next door is paying \$20 less rent for the same type of apartment.

Mr. Pierce: That takes us to another part of the bill, which is equalization.

Mrs. Probert: Will there be any kind of equalization?

Mr. Pierce: Perhaps we could ask the minister to respond to that. It is my interpretation of the bill that there is equalization. If there was confrontation previously between a landlord and a tenant, there will now be confrontation between the tenants in the hall before they get to the landlord. I will ask the minister to respond to that question.

Hon. Mr. Curling: There are provisions for equalization in the bill. The concern that equalization will mean a drastic increase for the tenants is also addressed. The end product does not increase your bottom line. In other words, if you are collecting \$4,000 a month in total--I am just using a very arbitrary figure there--and equalization comes about with the new tenants, it does not increase your \$4,000. There is an equalization of the tenants within the complex. I have tried, and my staff will carry that further.

Mr. Pierce: Do you understand that explanation?

Hon. Mr. Curling: Let me get it in its place here. I am saying that your total collection of revenue for rents will be \$4,000--and I am using an arbitrary figure--

Mrs. Probert: For a month?

Hon. Mr. Curling: For a month; for all people there. Within that, there are tenants who are paying different rates for the same type of complex.

Then you equalize that. For instance, if one was paying \$200 for a two-bedroom apartment and another was paying \$300 for a two-bedroom apartment, it would equal a total of \$500. If equalization should come about there, the differences would be shared by both. The higher rent would come down, but the bottom line itself would not change; it would not increase the amount of money you collect in total.

Mrs. Probert: I see what you mean, but that would not be our case. There are only six units that are below--they are spread around, because their rent increases go in different times of the year. Basically, some time during the year they are all paying the same rent for the two bedrooms; and they are all paying the same rent for the one-bedrooms at some time during the year. But these six apartments that are low are that much lower. The only way to equalize them--you could not; do you suggest taking the top off the 48 other tenants?

Mr. Pierce: What happens is that when the tenant across the hall finds that a tenant on the other side is paying less rent for a comparable apartment, he can apply for equalization. His rent will go down and the rent of the person across the hall will go up, but your revenue will not increase.

Mrs. Probert: Is that the way it is going to be in the bill?

Mr. Pierce: Under Bill 51.

Mrs. Probert: That is what we asked for to begin with but, as I said, the rent review added it on to all tenants equally; so they all went up.

Mr. Pierce: They all went up proportionately.

Mrs. Probert: Yes. That is what we would have gone for originally, but the high rents being paid by tenants would not have gone up as much; it would have been only a small amount because there were 48 of them.

Mr. Ramsay: Mrs. Probert, you mentioned that you may be forced to sell--you are considering that--and that your only gain would be a capital gain. You indicated that might be a good possibility for you in this market now and that there may be a real capital gain. I am curious about the market. Why this year rather than last year or a few years ago?

Mrs. Probert: I have no idea. Does anybody have an explanation?

Mr. Ramsay: There is a good market?

Mrs. Probert: There is a better market this year. I do not know why. Does anybody know why?

Mr. Ramsay: Does Mr. Jackson know why?

Mrs. Probert: You are nodding your head.

Mr. Jackson: Basically, it is because of the interest rates.

Mrs. Probert: Basically because of what?

Mr. Jackson: The interest rates. The reduction in interest rates for refinancing for purchase purposes and getting a five-year mortgage locked in at the lowest rates we have had--they are lower today than they were at any



point during the entire history of rent review in Ontario--is having a dramatic effect on apartments.

Mrs. Probert: That is very true.

Mr. Jackson: And you are selling a scarce commodity. The combination of those two make selling--if interest rates go to 20 per cent, this whole bill will lose its reasonableness and effectiveness and everything else.

Mr. Ramsay: Therefore, it appears that possibly it is high interest rates and maybe not rent review that has caused the low vacancy problem. If there were low interest rates, builders would be encouraged because they have less--

Mrs. Probert: They would be encouraged right now, if they were ever going to be encouraged, with low interest rates. They would be encouraged to build, and they are not building. I do not know what they are doing in Toronto.

Mr. Ramsay: They are just turning over existing buildings but not building new ones?

Mrs. Probert: Yes. They are not building in Hamilton; that is directly as a result of rent controls. They should be building, especially with the low interest rate. That would result in a lot more vacancies and the supply and demand--if we could get back to supply and demand--or what do people think of supplementary rental income?

Mr. Jackson: I just want to caution Mr. Ramsay with his question that basically Mrs. Probert is responding to the conditions under which she would sell her building and not necessarily commenting on whether she would go out and invest and build a new one.

Mrs. Probert: I surely would not do that.

16:10

Mr. Jackson: That is why I did not want to let Mr. Ramsay's perception of that pass.

While I have the floor, I would like to compliment Mrs. Probert for an excellent brief. We have had a very major landlord from Hamilton before the committee, and now we have had--

Mrs. Probert: A minor one.

Mr. Jackson: --a significant landlord with a smaller building before us. As one who has operated in Hamilton in this field for many years, I can assure you there are a lot of other factors that affect the housing stock in a community.

I would like the committee to be mindful of the comments the deputant made with respect to setting different policies for different parts of our province. Hamilton, for example, has an excellent supply of older, affordable housing, which many other communities do not have, and that does affect the rental market, sometimes positively and sometimes negatively. However, the conditions that exist in Hamilton in no way resemble many of those that are prevalent in Toronto.

There is a rather large number of smaller buildings because of other restrictions in a municipality that did not allow large residential tenancy complexes to be built in Hamilton until the recent couple of decades, whereas in Toronto the high-rise building has been a phenomenon from post-war times. There are lot of factors that go into the differences, and the committee appreciates your having brought that to its attention.

Mrs. Probert: Thank you. I would like to comment on this horrible landlord picture, the gouging, scrounging landlord. I do not know of any landlords in Hamilton who are pocketing a lot of money. Maybe there are in Toronto, I do not know, but there are none that I know of in Hamilton. As I say, a lot of them are of foreign extraction and it is just a small business. It is their life's savings, it is what they hope to retire on, and a lot of them live in and do the work themselves. They want to keep their buildings up for selfish reasons as well as anything else, because if you do not keep up your building, your property deteriorates. We have good relations with our tenants and we have had good relations with our superintendent. We have had no problems that way. The problems I mentioned are isolated cases such as some kid putting something down a toilet and then we have a major flood. It is really expensive, and what can you do?

Mr. Chairman: Before you leave, you come before us the way a lot of people whom I would not call small landlords do, not having read through the bill thoroughly. I do not blame you for that one bit.

Mrs. Probert: I have not seen it yet.

Mr. Chairman: I would not blame anybody for that. Where does someone such as you get information on a bill? Is it through the Fair Rental Policy Organization? I notice you are a member of the Hamilton Apartment Association. Is there someone who is helping landlords wade through this very complex bill?

Mrs. Probert: We were given a summary of some of the salient points that would affect us as landlords through the Hamilton Apartment Association, and some of the information came from the Fair Rental Policy Organization.

Mr. Chairman: Thank you.

Mr. Jackson: Did you receive any information at any time from the RRAC or from committee members with respect to their activity during the eight-month period when they were having hearings?

Mrs. Probert: No; only through the reports from the Fair Rental Policy Organization, not anything directly.

Mr. Jackson: Thank you.

Mr. Chairman: Thank you for appearing before the committee. We appreciate it.

Mrs. Probert: Thank you for having me appear.

Mr. Chairman: The next presentation is from the Ontario Co-operative Housing Committee. Ms. Noreen Dunphy is here. For members who have their packages, it is exhibit 54.

MS. NOREEN DUNPHY

Ms. Dunphy: I am the provincial relations co-ordinator for the Ontario Co-operative Housing Committee. This organization represents the resource groups that build nonprofit co-operative housing in Ontario. It also represents the existing housing co-operatives through their regional municipal federations.

I assume most of the committee members are aware that nonprofit housing up until last year co-operatives had been funded primarily through federal programs, under the auspices of the Canada Mortgage and Housing Corp., with various forms of additional assistance from Ontario. These programs have included the municipal and private nonprofits, as well as the nonprofit co-operatives. In addition, as of last year, with the assured housing program of Ontario, the province is now directly funding nonprofit housing co-operatives. It is these types of housing co-operatives that my organization represents.

You may be asking yourselves what nonprofit housing co-operatives have to do with Bill 51. I can assure you we asked ourselves the same question when we read the draft. I think we were among the most surprised people in the world.

As you are perhaps aware, nonprofit housing co-operatives are exempt from current rent review practices. Indeed, when the assured housing package was tabled by the minister in December, the sections associated with rent review made reference to the fact that these exemptions would continue.

However, from our review of the draft of Bill 51, it appears that although co-operatives are exempt from rent review with respect to their own members, projects would be subject to rent review if they contained even one rental unit. We believe this was an oversight in the drafting, rather than any particular change in policy. We have asked the minister to consider getting the government to move the reinstatement of the original exemption as an amendment.

On the first page of my submission, I quote from subsection 134(1) of the Residential Tenancies Act, where it states clearly that a rental unit "situated in a nonprofit co-operative housing project as defined in the National Housing Act" would be exempt. We would simply like this particular phrase reinserted in the draft of Bill 51. I would like to take a moment to clear up any possible confusion about why this is an issue.

In most cases, co-operatives have either no rental units, as defined in the act, or perhaps one or two. I will give you an example from my own neighbourhood, where there are a number of housing co-operatives.

A local church group has a support service for rooming-house tenants. It has set up a program in which its members go to housing co-operatives, nonprofit projects and so on, asking if units could be set aside for people whom they would refer and for whom they would provide some backup services.

It would not really qualify, however, as a program providing supportive or therapeutic care, as the act defines. These are people who, for one reason or another, are receiving some backup services. However, unless they become members of the co-op--and they may be there temporarily, for six months or a year--they are technically in a rental unit. The co-operative says: "Fine. We will put a unit aside for those purposes."



Because of that particular situation, the co-operative would be subject to rent review under the proposed bill. I can only assume, as I mentioned earlier, that it was not the intention to do that, that it was an oversight. I guess our main purpose in coming today is to bring it to the attention of the committee while we await the government's decision on whether to move it as an amendment.

We simply point out that we will be the happiest people in the world if we can remove ourselves from all consideration on Bill 51 and let you get down to the essentials.

Mr. Chairman: Thank you, Ms. Dunphy. Have you met Mr. Peters?

Ms. Dunphy: Oh, yes.

Mr. Chairman: He is the resident expert on co-operatives, so we will see what happens.

Mr. Reville: It may be useful if we ask the ministry official to comment on this issue.

16:20

Mr. Peters: There are probably two issues that should be addressed. One is the comment that the co-op would be subject to rent review. The act as written now specifies that where there is a landlord-tenant relationship, as opposed to a member relationship, the act would apply. In terms of the drafting, the issue to be addressed on the broader scale is, is that protection required or is it necessary in the co-operative housing program?

Quite frankly, I cannot recall protracted discussions at the Rent Review Advisory Committee on whether inclusion or exclusion is most appropriate. I believe at one point there was some discussion around the issue of, if you are arguing for tenant protection, should that tenant protection be general to include all tenants, or if there is a landlord-tenant relationship in a particular building, in the broader context of the co-op, should that not apply? I guess that is the issue we are resolving now. Noreen and I met yesterday and had a discussion about the issue.

Mr. Chairman: She does not appear convinced today.

Mr. Peters: No, I do not suggest she is convinced today.

Ms. Dunphy: I was wondering if Mr. Peters was convinced.

Mr. Peters: Noreen and I have had many discussions and I suggest that after many of them she is not convinced. To be fair, I suppose I have not been convinced on some either. I think it is a realistic issue that needs to be addressed and it will be.

Mr. Chairman: Is this one of the 100 amendments or not?

Mr. Peters: Not yet.

Mr. Chairman: Mr. Reville, you still have the floor.

Mr. Reville: If Mr. Jackson wants to ask Mr. Peters a question, I will be happy to cede the floor to him.

Mr. Jackson: The chairman asked if it was one of the amendments. I guess what you are really saying is you are not anticipating or the minister has not so directed you to bring forward that recommendation to amend in accordance with the definition.

Mr. Peters: Not at this time, no.

Mr. Jackson: Is it under active consideration?

Mr. Chairman: What is bothering some of us--it is bothering me, at least--is why is it not under active consideration? It seems to me to be an obvious request. It does not run counter to the principles of rent control. Am I not reading something into it that I should be?

Mr. Peters: There have been isolated situations in the past where there has been a rent increase beyond the guideline where a landlord-tenant relationship existed in some nonprofit projects. That is not to suggest this should be interpreted as being widespread. The issue did come up previously. As I said, Noreen and I had a discussion yesterday and the issue is being discussed with a view to bringing forward the appropriate amendment, should the minister so direct. This will be in addition to the 100 that are often quoted.

Mr. Reville: One hundred and one amendments; I like it.

Mr. Davis: The kind of options you have listed here, where you do rent it out, are commendable. In your own case it is dealing with something the local community has come and asked for some accommodation and you list these as temporary accommodations for refugees. Your building has become owner-occupied, but you provide for the elderly. I would assume that if it is not removed, then those kinds of options would no longer be followed by co-ops.

Ms. Dunphy: It would be more correct to say that each co-op would make up its own mind. All I have tried to do in this submission is to point out that what it would force in the reasoning process of a co-op is a decision that I think would be unfortunate; namely, either they subject themselves to time delays and extra costs and familiarity with the whole bill, keeping in mind they are already governed by other pieces of legislation and reporting formats, or they do not offer that opportunity to the tenant. I do not think it takes much imagination to see that in many cases co-ops would reluctantly feel they could not subject other members to that for the sake of this one tenant. I do not want to force co-ops to make the choice, frankly.

Mr. Davis: That is fair. Like the chairman, I had difficulty understanding why it is--

Mr. Chairman: Would you allow a supplementary from Mr. Reville?

Mr. Davis: Yes. I can give him back the floor.

Mr. Reville: Thank you very much, Mr. Davis. That is very thoughtful of you.

Ms. Dunphy, what seems clear is that this is not inadvertence; this is a policy matter that the government should have addressed but that it may readdress again. I guess that causes you some problem.

Ms. Dunphy: If that is the case, then that would cause us concern

because we would feel that nonprofit co-operatives were being somehow set aside or dealt with separately from other nonprofits, and it just does not make any sense to me. However, I am not convinced it was a deliberate decision; it may or may not have been. We have asked the minister to consider moving the amendment or to see whether the government would agree to move the amendment. We have not had a negative answer on that. We anticipate a positive answer. Frankly, if I am wrong, then I will have to count on this committee itself to consider what it would like to do.

Mr. Reville: This will become an issue at the time clause-by-clause is considered here, and there may be a government amendment or there may not be. So that the committee has this issue in hand, would you very briefly explain how co-op units' housing charges are determined each year?

Ms. Dunphy: In a housing co-operative, a budget is drawn up annually and that budget is submitted initially to the members--that is, all those people who live in the co-op, with the possible exception of the occasional tenant; although our experience is that the tenants usually come to meetings anyway and nobody notices any difference--and they vote. That is, the members themselves must vote on the budget, including any housing charge increase, whatever it might be. They are under obligation, of course, to raise only sufficient money to cover the costs, because we are bound by regulations governing a nonprofit corporation, quite apart from our obligations with respect to the Canada Mortgage and Housing Corp. or the province of Ontario. In most cases, the budget is sent for approval to CMHC or to the province.

That is the process. Again, where 99 per cent or 100 per cent of the people who live in the project have carefully reviewed every item in the budget, made amendments and voted on whatever they think is necessary to cover the costs, I think you can see why it would bewilder them suddenly to have to go through a separate rent review process because of one particular unit.

Mr. Reville: Just so the committee is clear, the members of the co-op may decide, for whatever reason--because they want a new laundry room or something--to increase their own housing charge by more than the guideline.

Ms. Dunphy: That is correct. In fact, it would be appropriate to say that the rent review guideline has no real meaning in the operation of any nonprofit project, since you are simply endeavouring to meet your costs. In some years they may be less; in some years they may be more.

Mr. Reville: Some years there would be no increase in the housing charge, I guess.

Ms. Dunphy: Once in a while that happens. Since we normally are advising co-ops to continue to put money aside in reserves for future replacement, it does not happen very often. But yes, some years it could be nothing; some years it could be minimal; some years it might be at about the rent review average, and other years it might be more.

Mr. Ramsay: Can I get a clarification on something here that I do not quite understand?

Mr. Chairman: Mr. Reville--

Mr. Ramsay: He knows, but I do not, so would you be a little patient with me?



Mr. Reville: I will be patient with Mr. Ramsay.

Mr. Ramsay: Under your guidelines in the co-operative, where you are not allowed to raise the rents more than needed to cover costs, does that also apply to the tenants you have?

Ms. Dunphy: It would be more correct to say that of the budget as a whole.

Mr. Ramsay: So you apply it equally to everybody, regardless of whether he or she is a co-op owner or a tenant.

Ms. Dunphy: It does not necessarily follow. It does in most cases, but the two are not automatically equated. The total revenue raised in the project must be sufficient to cover costs; that is correct. If, at the end of the year when the dust settles, you are a little over or a little under, you make a suitable adjustment in the next year's budget. That is how it works.

In probably 99 per cent of cases where there are tenancies, the rent charged to that tenant is identical to the housing charge to a co-op member for a similar unit. There may be some instances--I do not know of any, but it is possible, so I will just explain it--where a co-op will charge a minimal amount on top for a tenant to reflect the fact that it may be asking co-op members to volunteer time that year to cut expenses.

16:30

I will give you a very simple example. In my own co-op, we decided to save money one year to replace a roof that we needed. We cut down on our casual labour for groundskeeping that year and we did all our grass-cutting in our common areas by volunteer labour. That was something we chose to do. We have a tenant in my co-op. We did not choose to do it, but theoretically we could have charged that tenant, let us say, another \$2 or \$5 a month to reflect the fact that we have no right to compel the tenant to participate. Therefore, it is possible for a co-op to charge a minimal amount extra. It would not receive approval by the Canada Mortgage and Housing Corp. or Ontario at budget approval time unless that amount were minimal and simply reflected the difference in volunteer participation.

Mr. Reville: I was patient and I am glad I was patient, Mr. Ramsay.

In the case of the Oak Street co-op, which is a new co-operative on Oak Street near Gerrard, the Christian Resource Centre actually rents a unit from that co-op to provide a housing opportunity for single men who have had a hard time finding housing. The co-op actually charges the Christian Resource Centre a rent which it then recovers from the people who live there. I suppose it could happen that the membership of the Oak Street co-op might decide to increase their housing charge one year by, say, six per cent. If that were in 1987, it would be higher than the guideline. Your objection is that to increase the rent on that unit you rent to the Christian Resource Centre, you would have to go to rent review. Is that your objection?

Ms. Dunphy: Yes.

Mr. Reville: If you failed to go to rent review, the other co-op members would have to pick up the difference on that unit, which you would think was not fair.

Ms. Dunphy: That is correct.

Mr. Reville: It would be dumb to go to rent review for one unit.

Ms. Dunphy: That is very correct.

Mr. Reville: Mr. Peters, shame on you.

Ms. Dunphy: Can I add one clarifying point? It is not just a matter of whether it would be dumb. There are something in the order of--I do not have the exact number--200 housing co-operatives in Ontario. If the bill were to remain the same as currently drafted with respect to this one clause, any of those co-ops could be brought under it.

In many cases, we are talking about co-operatives that are 20 units, 40 units, 50 units or 60 units, where a good deal of the administration and management is done on a volunteer basis by average co-operate members. One of the things we try very hard to steer away from is subjecting these co-ops that depend heavily on laymen, if you like, to complicated bills or regulatory or legislative requirements that even inadvertently they could run afoul of. We try to keep things fairly simple and streamlined. We produce materials that explain what administrative system should be followed and so on, purposely to avoid that.

What I am worried about is if a co-op were to decide that, none the less, it was worth while doing and it was subject to rent review and it went ahead and did it, the likelihood of even inadvertently blowing it is rather high. We do not want to subject them or the province to that.

Mr. Reville: Would it be possible for your committee to provide us with information on how many rental units there may be situated within housing co-operatives in Ontario or is that job impossible?

Ms. Dunphy: There is no central registry of such a thing. It would mean I would have to drop all my negotiations with Mr. Peters on Bill 11 and all my negotiations with Mr. Curling on the co-op program and survey 200 co-ops.

Mr. Reville: It is all right. I will ask Mr. Peters to do it.

Ms. Dunphy: In all seriousness, if I were to hazard a guess, I do not imagine that we are talking about--

Interjection.

Mr. Reville: Why should they research it? Why does the government not do it?

Interjection: The New Democratic Party research department should do this.

Ms. Dunphy: I do not imagine that more than 40 or 50 projects out of a possible 200 could conceivably have a single unit or two rental units in them. It might be less.

Mr. Reville: Are we talking of a maximum of 80 units in Ontario?

Ms. Dunphy: I think so.

Interjection.

Ms. Dunphy: Yes. It is not much.

Mr. Reville: Mr. Pierce, the point is that if there are 80 units of this description in Ontario, who is being dumb here? It is not the members of this committee.

Interjection.

Mr. Reville: If that is what you think it is and the government cannot say it is more, then I will accept that. That is fine by me, if we are talking about--

Interjections.

Mr. Ramsay: He is caving in, is he?

Mr. Reville: No, he is not.

Mr. Chairman: Why did the members look so sceptical when I said Mr. Peters was about to be helpful?

Mr. Peters: I guess it is because I tried to explain equalization two days ago.

The issue that Noreen and I chatted about yesterday, which I tried to address previously, is simply that if one assumes--and I think it is a fair assumption amply demonstrated by the practice of the co-ops--that their intent, and indeed the program they run, is there to keep housing at the most affordable level, and it operates on a direct cost pass-through basis, the issue that Noreen raised with me and that we talked about is whether that direct goal of the co-op provides sufficient protection to a tenant who happens to be resident in a co-op.

That is the issue that is before us and the one we are presenting to the ministry vis-à-vis the act as drafted, which really says that if a person is a tenant, should he enjoy the protections of this act, or is the very nature of the co-operative enterprise sufficient protection? That is the issue as I perceive it.

Mr. Reville: I did not find that particularly helpful, Mr. Chairman.

Mr. Epp: I have two questions. One is for Mr. Peters. Since these co-ops all have to register, I would assume that you have the names and addresses of all the co-ops in Ontario. Is that not correct?

Mr. Peters: They are made available to the community housing--

Mr. Epp: They have to submit their budgets; therefore, it is all available. There you have one answer, Mr. Reville.

The other thing has to do with your contingency account and your reserve account for future improvements. Are such accounts permitted under the present act and is a distinction made between a contingency account and an improvement account or a reserve account?

Ms. Dunphy: The government funding programs that all nonprofits



operate under, including co-ops, mandate that a replacement and reserve account be created, and there are requirements as to keeping a minimum amount of money in it.

A contingency account is something different. You would normally in an operating budget have a couple of percentage points worth of the operating budget set aside for contingency to cover vacancy loss, bad debts and so on. But in a nonprofit project at the end of the year, it is all netted out; that is, your operating income and expenses are netted out. You might have run a slight surplus or a slight deficit. If you have run a slight surplus, it goes into what we call retained earnings. Retained earnings may not be drawn on by the members of the co-op; they may not be used for anything other than helping the co-operative to meet its expenses.

For example, if there were a slight surplus in one year of \$5,000, it would go into retained earnings. If next year you ran a deficit of \$5,000, you would simply draw the \$5,000 from the previous year to cover the deficit of that year. The point is that, over time, things continue to balance out evenly, even though at any one point in the year it might be a little up or a little down.

The replacement reserve account may only be spent for major replacement and upgrading, with the permission in the past of the Canada Housing and Mortgage Corp. and now, in the case of provincial co-ops, Ontario Housing Corp.

Mr. Epp: What is the guideline with respect to that? Is there a certain percentage of the total value of the co-op or of the operating costs?

Ms. Dunphy: There are formulas set to identify the proper amount for the replacement reserve account, and appraisers are constantly changing their approach to how it should be done. We in the co-operative sector have ourselves developed some of our own research and computer programs to try to pin it down more specifically on a building-by-building basis so that you can actually predict, within reason, over a 10-, 20- or 30-year period at what points during that interval the co-op would need to draw on the reserve, for how much money and for what items, so that you can continue to put into it what you need to pay out of it.

Mr. Epp: Thanks very much.

Ms. E. J. Smith: I was wondering, by way of the history of your co-op, whether you ever get the situation where a majority votes for an increase and a minority objects to it. You send it away to government for approval; I assume that would be the process. If you had a minority of 30 per cent who said, "Hey, we cannot pay for that improvement and we do not want you to do it," would their process of appeal be to the government that approves your budget, or does it just never happen?

16:40

Ms. Dunphy: It certainly would happen from time to time that, within a given co-op, members would disagree on what the budget should be. It is worth pointing out to the members of the committee that in every nonprofit co-op funded by either of the two senior levels of government, there is a certain portion set aside for those on rent geared to income. In most cases, perhaps not all cases, those people who in theory might not be able to afford an increase are already protected because they are paying rent according to income, with the government making up the difference.

Ms. E. J. Smith: That they would be rented out is in their favour, since they do not have to pay for these units.

Ms. Dunphy: I suppose so. What is far more likely to happen is not so much that you have a sizeable block of people who cannot afford it, as there is an honest difference of opinion about what maintenance priorities are for the next year and so on. I cannot recall a situation where there has been a major split or where it has been significant. There probably have been some, but I cannot personally recall any. Technically in a co-operative, it is the majority of the members who will determine that, subject to the constraints offered by the senior levels of government through the funding programs.

Let us take an example where for some reason the majority voted an increase that does not seem warranted for some reason that might be picked up by either CHMC or the province when they are reviewing it. It is hard to imagine that, because why would people voluntarily vote to pay more than is needed to cover the costs? You can see there is an automatic disincentive.

Ms. E. J. Smith: Under the bill, any group can charge less than is permitted; so you have no problem as long as you are not going over. The only reason to be interested in whether you are listed is that on some occasion you might wish to go beyond the guidelines.

What would happen to any minority within a co-op that wanted to object to your going beyond the guidelines? That is the only reason it would be of interest to you.

Ms. Dunphy: What would happen to them? They would have their say at the members' meeting. If they lost the vote, then I guess in a sense that would be it, except where the budget still needs to be reviewed by either CMHC or OHC. I suppose if they felt they had a case and if the government happened to agree with them, the government would then sit down with the co-op and say: "Can we work this out? Let us see what makes sense."

Ms. E. J. Smith: There would be a process of appeal for them.

Ms. Dunphy: It is not so much a formal process of appeal that is written in. I guess it is just an opportunity.

Mr. Chairman: We had best wrap this up. We have another presentation and we should be out of here shortly after five in order to be back at seven. Thank you, Ms. Dunphy. I can assure you that when the clause-by-clause debate rolls around, the question of the co-op will be before us.

Ms. Dunphy: Thank you very much.

Mr. Chairman: The last presentation of the afternoon is by Mrs. Zavitzianos. Please make yourself comfortable. We welcome you before the committee. Do you have a written presentation or an oral one?

HELEN ZAVITZIANOS

Mrs. Zavitzianos: It is an oral one. I want to give the committee our side of the situation and an insight into a probably different investor. This is an overseas pension fund that has owned 160 residential units since 1971. You do not have either the individual investor or the developer. It is long term. There was not the pressure of having in the present term. The idea was that in 20 or 30 years when people start drawing their pensions, the bank should start having something there.

During the first few years, the investors lost money. These, by the way, are very large apartments, 1,190 square feet to a bedroom. Half of the exterior wall is glass windows, so there is a terrific heat loss. It was a badly conceived superstructure, a luxury development for a rather poor, lower middle-class, blue-collar area.

Rent controls came. This building is situated in Downsvue where the rents have been, in comparison with the rest of the city, much lower. In this area, I think we were even poorer than general, because it was hard to find decent people to come in. There were great vacancies and a terrific turnover. For years we had a turnover of half the building--80.

We were renting two-bedroom apartments for reduced rents, like one-bedroom apartments, so we went to rent review. Instead of getting what was reasonable to operate the building, we got a rather unfavourable--at rent review, as long as you do not have a cash loss for the year, that goes. It was very disappointing.

After that, we thought it was temporary; so we took matters in our hands and started renting at market rents. Until 1979, we had great expenses because we had to change the plumbing. We had floods everywhere. That year there was a \$30,000-cash loss. The owner said the expense of going through rent review was about \$5,000 and was not worth it, that Ontario is a free economy and controls will not last for ever. That was nine years ago.

We arrive at today. The building gets older and a lot of repairs get worse. All of a sudden you have to change kitchen counters. Again, you get electrical panels that go on fire. All the screens have to be changed. The wooden doors to the balconies seem to be warping.

Two years ago an inspection company came to see our garage. It was fine. This year it is a disaster. Water is coming in from five places. So far, we have a cash flow of \$25,000. That is exactly the excess rent we have been collecting. Of course, we have to go to have the rents adjusted because the building is 20 years old. Its present owners have had it since 1971--17 years.

We have spent about \$500,000 on repairs. We felt we should do the necessary maintenance to have the building warm and clean with hot and cold water, but now North York comes and says, "You have to paint the exterior of the building." That has nothing to do with it, but we have to do that. They say, "Paint the stairwells where the plaster is falling off." If it is swept and clean, I do not think that is necessary, but there is another \$20,000. We also have to fix the roof.

16:50

I just want you to know the reasons we have had. It was economically easier to operate the building, and cheaper. I will tell you our rents. We charge \$410 for a two-bedroom. The schedule average is \$388, but there is no way that building can carry with \$388. We have a swimming pool we can close. It is unnecessary, but if we close it, the rents will have to go down.

That is all I have to say.

Mr. Chairman: Thank you. Are there any questions from members of the committee?

Mrs. Zavitzianes: I would like to have any questions.



Ms. E. J. Smith: Were you under rent review before?

Mrs. Zavitzianos: Yes. We did go.

Ms. E. J. Smith: Do you feel you will be better off under this new bill?

Mrs. Zavitzianos: Definitely. I think it is reasonable and sensible. We would be delighted with a four per cent or five per cent increase. Otherwise, it has to be sold. We cannot carry it. There are financing costs that will increase the rents year after year.

Mr. Cordiano: Do you intend to sell the building?

Mrs. Zavitzianos: If the operation is not comfortable, yes, it will be sold.

Mr. Cordiano: How many units are there?

Mrs. Zavitzianos: There are 160.

Mr. Cordiano: It is a high-rise?

Mrs. Zavitzianos: Yes, but nice, delightful sort of people. Ninety-five per cent are good family people.

Mr. Cordiano: Where is the building located?

Mrs. Zavitzianos: In Downsview.

Mr. Cordiano: Where? What is the address?

Mrs. Zavitzianos: You want the address?

Mr. Cordiano: Yes.

Mrs. Zavitzianos: Why?

Mr. Cordiano: I am the member for that area, so I wanted to know which building we are talking about.

Mrs. Zavitzianos: I would rather not.

Mr. Cordiano: Fine. I am familiar with quite a few of the buildings in the area, and that is the reason I was asking.

Mrs. Zavitzianos: I can give it to you privately, if you want it.

Mr. Cordiano: Okay. You are aware of some of the provisions in Bill 51?

Mrs. Zavitzianos: Yes.

Mr. Cordiano: Some provisions will allow for relief. Of course, we would have to look at whether that building would qualify, given the conditions in the provisions.

Mrs. Zavitzianos: Yes. If it does not qualify, it will be sold.

Mr. Cordiano: I am talking about hardship relief and other provisions that may allow you to increase the rents.

Mrs. Zavitzianos: Our feeling is that the interpretation of the bill will be such that it will be reasonable.

We have a two-bedroom apartment nearly 1,200 square feet in area, the same size as the three-bedroom bungalow we live in. Down the street, there is assisted rental housing in which the three-bedroom apartments are 900 square feet in area, 300 square feet less. I do not know the area of the two-bedroom apartments there, but two years ago they were renting for \$470. At that time, we were renting for \$365.

Our taxes are \$102 a month for an apartment. It is just stifling.

Mr. Cordiano: I would like to ask a question of Mr. Church. Given those facts, would the provision for chronically depressed rents in section 88 apply in this case, or would it be hardship relief?

Mr. Church: It is conceivable that one or the other might apply; it could not be both. It is equally likely that other provisions of the bill might make life more difficult, depending on the circumstances.

For example, under the rent registry, the compulsory registration of that unit will reveal the illegal rents that have been referred to; they will be rolled back, and rebates will be paid. That could obviously cause very substantial financial difficulty and, conceivably, insolvency. That will be the case in some instances. It may or may not be the case here.

Those unwarranted increases--perhaps warranted, but increases not legally taken--cannot be recovered under the bill. However, the costs that led to them can be used to justify somewhat higher rents than may be there.

There are a number of fairly complex provisions which, on balance, may prove beneficial. I believe the members have noted the complexities in the past. However, the first step will be to roll the rents back to the legal level, which in itself may be too substantial a blow to survive.

Mr. Davis: Have you read the bill?

Mrs. Zavitzianos: I have read the interpretation of the bill.

Mr. Davis: Where did you get that?

Mrs. Zavitzianos: From the government; from the Fair Rental Policy Organization of Ontario.

Mr. Davis: Is that a government body?

Mrs. Zavitzianos: No.

Mr. Reville: Yes, it is, Mr. Davis.

Mrs. Zavitzianos: No, it is not. A little booklet was issued by the government for the members to read and understand. I do not have it with me.

Mr. Davis: I just need some clarification. Is that the yellow book?

Mrs. Zavitzianos: Yes. The guidelines.

Mr. Davis: Okay. Thank you.

May I ask two quick questions of Mr. Church? Let us say someone owns a building. Because of an economic crisis, he decides to close the swimming pool because it needs major repairs, or he no longer wants to staff it with a lifeguard, if that is required. Does there have to be an adjustment downward in the rent he charges?

Mr. Church: Yes. Under both the present act and the act we are proposing, tenants can go to rent review to have the rents reduced for a reduction in services.

Mr. Davis: I want to be sure I heard what you said or what I believe I heard you say. In this case, you suggested that because there might not have been increases, or illegal increases, there would probably be a rollback of rents. Therefore, the people who own that building would be put in a position of insolvency, meaning they would have to sell.

Mr. Church: It is conceivable.

17:00

Mr. Davis: I know this might be a policy statement, and you may want to run around it. I will respect that, and ask the minister later. Maybe I should ask the minister--yes, I think I will ask the minister tonight--

Mr. Reville: Tell us what you are going to ask him.

Mr. Davis: No, I am not going to tell you what I am going to ask him.

Mr. Ramsay: Take three guesses.

Mr. Davis: What it means is that the present legislation proposed by the Liberal government will force people to sell their buildings.

Mr. Church: Those people whose illegal rents are at a level sufficient that they cannot justify them under the provisions provided in the bill--in other words, they have been charging illegal rents for long enough that the two-year rebate would give them an impossible cash flow situation--will be moved into insolvency. There is no getting around that. We cannot even begin to predict how many there are. I can tell you about the estimates.

Mr. Davis: What is the estimate?

Mr. Church: The estimates from the landlord organizations are that among small landlords there will be very few pressed to that extent, although they will be pressed. Among larger ones--and here we are still talking about relatively small landlords, with anywhere from 50 to 150 units--there will be a substantial number, perhaps up to five or six per cent of those buildings.

Mr. Davis: I cannot believe what I am hearing.

Mr. Church: I think this is an important point: The simple reasoning--

Mr. Reville: You are wanted on the telephone when it happens.



Mr. Church: You put your finger on a very important point. Under the present system we have a very significant level of noncompliance with the law. The bill, as it is presented before you, tries to stike a balance, and it is a policy question. I will not defend the balance one way or the other; I will describe it. It tries to strike a balance in which it says if the rents are illegal, they will be rolled back to what would have been legal levels. Then, if there is documented justification for the illegal rents that were taken, an application can be made to pass those costs through again.

It may sound cumbersome, and in fact it is. Again, this is not as a defence but an explanation, but the simple reason is that if you are going to roll back the illegal rents and not bankrupt everybody who is charging them, then you have to have a measure of justifying whether the illegal rents are justifiable once they are caught and legalized, or unjustifiable. That would be a long and arduous process.

Mr. Davis: Out of curiosity, Mr. Chairman, I hate to prolong the debate, because I know we have to come back at seven.

Mr. Chairman: It is an important point.

Mr. Davis: How much in illegal rates would we be talking per month? Would it be hundreds and hundreds of dollars or \$30 or \$40?

Mr. Church: You are venturing into a highly speculative area. In all probability you are talking about anywhere up to a third to a half of all rents being charged as illegal. Sorry; I am wrong: A third to a half of all landlords are charging some illegal rents.

Mr. Davis: That is what I asked.

Mr. Church: That is a different issue. Some of those rents will be significantly illegal. There are landlords in the province we know of who have jacked the units to the highest tolerable level every time they have been vacant. That is not the case here. However, you will have instances where the units are illegal by amounts of \$500 and \$600. Those people will go bankrupt.

Mr. Chairman: Per unit?

Mr. Davis: Per unit?

Mr. Church: Per unit. We will have instances like that.

Mr. Davis: What is the average? Give me the average.

Mr. Church: The average would be much lower than that.

Mr. Davis: Ball-park it.

Mr. Church: How many people cheat on their income tax?

Mr. Davis: That is not the question I asked.

Mr. Church: I know, but you are asking me to guess.

Mr. Pierce: Nobody here.

Mr. Church: I cannot guess.

Mr. Davis: Would it not seem fair, just and more logical, rather than putting all kinds of people in a position where they can lose their livelihood, because I assume that is what it is, whether they are big landlords or little ones, to look at it and in some cases, if they are as exorbitant as you say and I do not doubt it, you will have to deal with that in another way, but if they are \$30 or \$40 per month extra, you could say there is no increase, period?

Mr. Church: Essentially, this legislation does have that to a degree. Whether or not it is more logical, I will leave for you to ask the minister.

Mr. Davis: You had better go and tell him he is going to be asked.

Mr. Church: To describe what is in the legislation is an enormously important point, I think; I know the RRAC members do too. If the differences are incidental--and here we are talking about an amount to be defined in regulations; the RRAC has been talking about things such as no more than one per cent per year over the guideline or \$5 per month per year--if we are talking basically in the range that this witness is talking about, if that is defined as incidental and justification can be made for those rent increases, if the costs were such as were described here, then that will be the effect of this bill. With the real process of coming to review, those rents will be reduced and in the same process re-established at that level as being justifiable.

Where there is a substantial differential that is unjustifiable, they will be reduced and rebates will be paid. I want to make this point very clear: Some landlords will be driven into receivership simply by the magnitude and size of the illegal rents they have charged historically.

Mr. Davis: I will ask one question, and then I will stop, Mr. Chairman; we will have dinner, and I will reflect upon this. Would I be correct in assuming that the landlord representatives on the RRAC agreed to drive their colleagues into receivership by adopting this process? Is that a RRAC recommendation, or is that a recommendation of the government?

Mr. Church: That is a RRAC recommendation. I do not want to put words in the landlords' mouths, and one of them is here, but I think I can say that for those people who were clearly usurious in their practices, the landlords are among the first to want to drive them out of business.

Mr. Reville: There is no suggestion, though, that any names were mentioned?

Mr. Davis: I did not ask for the names. I just find it difficult that an individual, believing in the free enterprise system, comes a number of years ago and invests in some kind of equity, maybe broke the guidelines--

Mr. Reville: No; broke the law.

Mr. Davis: I will not say that. Maybe stretched the guidelines.

Mr. Reville: Broke the law.

Mr. Davis: Broke the law, and then--

Interjection: And then cheats on his income tax.

Mr. Reville: We are going to audit them.

Mr. Davis: It is interesting. I did not realize that was part of the bill. Thank you for your honesty. I appreciate it.

Mr. Chairman: Mrs. Zavitzianos, you can see that you have raised some interesting matters before the committee and stimulated some considerable debate. We appreciate your presence before us this afternoon. Is there anything you want to add before we adjourn?

Mrs. Zavitzianos: No. It is very hard to justify in a committee the economic forces that make you take the organization in your own hands and ignore the--I have been to rent review before 1976. Although the results were disappointing, the rapport was very agreeable.

As time goes on, I find that the commission and the tenants have become unreasonable and schizophrenic in their approach to the evaluation of the facts. Who owns this unit and why? They go in their apartments. They get all sorts of appliances in contravention of the terms of the lease. They hook up lines of their own making without electricians. They blow out your electrical panels.

They are the boss. They take you to the Ontario Human Rights Commission and say you are discriminating. "How can you prove that it is his crossed wires?" "The superintendent and our electrician said that." "Who are they?" He says, "I work for Massey-Ferguson, and I know all about electricity." They say, "He is right; his apartment is his home, and he did what he felt was right." He runs your building.

Mr. Chairman: Thank you very much for appearing before the committee. We are adjourned until 7 p.m.

The committee recessed at 5:10 p.m.



STANDING COMMITTEE ON RESOURCES DEVELOPMENT  
RESIDENTIAL RENT REGULATION ACT  
WEDNESDAY, AUGUST 27, 1986  
Evening Sitting



CHAIRMAN: Laughren, F. (Nickel Belt NDP)  
VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)  
Bernier, L. (Kenora PC)  
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Pierce, F. J. (Rainy River PC)  
Reville, D. (Riverdale NDP)  
Smith, E. J. (London South L)  
Stevenson, K. R. (Durham-York PC)  
Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Davis, W. C. (Scarborough Centre PC) for Mr. Bernier  
Jackson, C. (Burlington South PC) for Mr. Stevenson

Clerk: Decker, T.  
Clerk pro tem: Forsyth, S.

Staff:

Ward, B., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)  
Church, G., Assistant Deputy Minister, Corporate Resources and  
Building Industry Development

Individual Presentation:

Smith, Dr. L. B., Professor of Economics, University of Toronto

From the Stonegate Community Association and 4 Crownhill Tenants'  
Association:

Billings, R., President, Stonegate Community Association  
Strizzi, M., Vice-President, Stonegate Community Association

From Tenants of 323 Park Lawn Road, Etobicoke:

McCabe, J.

From Tenants of 167, 173 and 177 Stephen Drive, Etobicoke:

Thrasher, G.

From Heatherdale Tenants Association and 3 Heatherdale Road:

Jackson, M.

From 1 Hill Heights Tenants Association:

Humphreys, L., Member, Steering Committee  
Cavin, J., Member, Steering Committee

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, August 27, 1986

The committee resumed at 7:10 p.m. in room 228.

RESIDENTIAL RENT REGULATIONS ACT  
(continued)

Consideration of Bill 51, An Act to provide for the Regulations of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The standing committee on resources development will come to order. Our first presentation for this evening is from Professor Lawrence Smith, who is a professor of economics at the University of Toronto. There is no truth to the rumour that his presentation was written by Dr. Lavery--at least, I assume there is no truth to that.

Professor Smith, welcome to the committee. We look forward to hearing your views. By the way, this is exhibit 40 in the package for members.

DR. LAWRENCE B. SMITH

Dr. L. B. Smith: I thought what I might do, before I get into anything, is just take a minute or two and say who I am to try and familiarize you with me. I am a professor of economics with the University of Toronto, having as one of my specialty interests the economics of real estate and housing. Just so that everybody will know what kinds of things I have got into, I will point out at the outset that I have acted as a consultant for the Fair Rental Policy Organization of Ontario and also for the Committee of Concern for Rental Housing in Ontario.

I also want to indicate at the outset that I look after my family's investments in general, and some of that, including my own interests, is the ownership of some apartment units. It is relatively modest, but nevertheless, it is still a position.

I say that just to make things clear at the outset but, on the other hand, I want to indicate that it might be clear from the curriculum vitae that I asked to be circulated with my comment that I have an ongoing and very substantial professional interest in the area as an academic economist, and one that has stood up to a variety of international criteria. It is in that capacity that I am talking tonight. My comments are my own and are based on my position as an economist and not as a particular vested-interest spokesman.

I also want to indicate right at the beginning that my comments tonight are going to be confined to those items that I believe can easily be changed without affecting the spirit of the legislation and without requiring any kind of major redrafting or conceptual changes. While there are things that I might want to comment on, or if I were starting from the beginning with you otherwise, I am not going to delve into those. My intent is only to deal with three basic items that I think can be modified and, if not, will have significant economic repercussions.

I know you are all familiar with the background, but maybe I can take a minute or two anyway so that we are all on the same wavelength, and talk about



the background, which is, of course, that we are coming into Bill 51 after a long history of experiencing rent controls and the effects of rent controls.

Most economists, in any event, would agree that rent controls have certain effects, most of which have now been reflected to a greater or lesser extent in Ontario. Foremost among those would be things like a reduction in housing starts, an increase in deterioration of the existing housing stock, an increase in cost to government, an increase in disrespect for the law as a result of things like key money and an inefficient way of reallocating income or redistributing income.

On the other hand, they hold down rent, and there is no doubt in my mind that rents on what we might call pre-1976 buildings are about 10 to 12 per cent lower than they would otherwise have been without controls. You might debate the numbers, but they are obviously lower than they would have been. As well, rents in post-1975 buildings are probably somewhat higher than they would have been in the absence of rent controls.

That is more or less the background of rent controls--as I and, I would say, most economists would see them--as they generally operate in Ontario. The objectives of Bill 51 were, I imagine, to try to redress many of the problems that had been created by the form of rent controls we have had in the past.

There is one major improvement that can and probably will take place as a result of Bill 51. If many of the clauses in the bill are believed to continue into the future, if they actually stay in place for some time and are not changed, the bill should stimulate new construction. I do not want to deal with that, however; I want to raise the background item that this is one of the pluses to be considered.

Another plus in the bill is the very process itself, the fact that two groups which were diametrically opposed at various times seem to have been able to agree on a number of issues and have brought forth a document. As a political achievement, therefore, I believe this is very worth while. As I have stated before, however, it has a number of shortcomings as a blueprint for the future of housing in Ontario. It is to three of these shortcomings that I want to address my comments tonight.

The first problem is the way the statutory increase is structured--the residential complex cost index, as it is now known. I am sure you are quite familiar with it. It is set up in such a way that the statutory rent increase will equal two thirds of the building operating cost index plus two per cent, subject to the fact that that index will not be negative.

The effect of that is to say that if building costs go up with inflation and if inflation is six per cent, then rents and inflation will go up together. If inflation is less than six per cent, then rent increases will be a little bit more than inflation. If inflation is more than six per cent, rents will rise less than inflation. All of this assumes that the market will permit whatever rent is allowed here to be passed on.

Of course, there is always that constraint: Whatever the legal increase is, the market may turn around and not validate it. However, that is the essence of the basic RCCI formula. I am not really going to comment on whether it should be two thirds, three quarters or whatever. I take that as a given.

What disturbs me in the formula, however, is that it is calculated as a three-year moving average. At this point, I am not going to question whether

it should be 100 per cent of the index, two thirds or whatever, just the implications of doing this as a three-year moving average.

As I understand the way this works, an announcement will be made, some time before the end of August in any given year, of what the RCCI increase will be for the subsequent year. It will be based on what the increase in the building operating cost index was in the preceding three years.

If we were dealing with this year and if this were in effect, it would mean that some time in the next couple of days an announcement would be made of what the rent increase would be for 1987. That increase would be based on the inflation rate and on cost increases that took place in 1983, 1984 and 1985. That would give us the three years we could then observe in 1986 to say what the index would be for 1987.

19:20

The effect of that is to create at least a three-year lag in the relationship of rent increases to inflation. To see how we get a three-year lag, just think of 1983, 1984 and 1985 and, instead of a whole three-year period, think of having an average right in the middle of that period. That would be 1984 and in the middle of the year. You can think of the inflation rate that is being reflected as that which is the average for the period or is centred in that three-year period, which is mid-1984. That is going to determine the rent increases for 1987, which, on average, will turn out to be in the middle of 1987 because they will take place January through December. The result is that you have the inflation rate in mid-year 1984 determining the rent increase in mid-year 1987.

That has a number of implications. The most serious is that it creates a major lagging of rent changes behind changes in inflation. In particular, let us visualize a situation where inflation is going to increase. I do not know whether you still have the things that were distributed, but in my distribution there was a table that I am going to work from. Basically, it calculated what the statutory rent increase would be over a number of years between now and 1993, assuming that we begin in 1986 with four per cent inflation.

Mr. Chairman: Excuse me, Professor Smith. Is this table 1 of the brief?

Dr. L. B. Smith: It is table 1. What that does is to assume that we go from four to five to seven to nine per cent inflation, and then we start back down to seven, five, three and then go back up to end off at four, where we began. It did not matter what numbers I took; the trend was all going to be the same.

What you see happening is that the rent increases that take place lag considerably behind the inflation rate, so that in the last column, once we get to 1988, which is the first year the whole pattern starts to kick in, we see that inflation is running two and one third per cent above the rent increase. The year after that it goes up to four per cent and then the next year it is 1.4 per cent. What is significant in that year is that it is 1990, the year in which inflation turns down. Even in a case where inflation peaks and then starts down, because of the nature of the lag, you can still end up in situations where rent increases are running below inflation, not because of the formula itself, not because of the two thirds plus two per cent, but rather because of the lagging procedures.

If you had a world in which inflation increased steadily, then of course you would always be lagging. If you had a world in which inflation went up and then levelled off, the length of lag would be longer than in this table where it turns down. In any event, you are looking at a lag of three years and of sometimes four, depending on how you do it, in which inflation would outpace rent increases on the upside.

Then you go in the opposite direction. When you come into a world in which inflation is coming down, you can end up with rent increases considerably in excess of the rate of inflation. When you get to 1992, where we are hypothesizing three per cent inflation, the formula would generate a seven per cent rent increase, which is then considerably more than double the rate of inflation.

The problem is that, from the point of view of landlords who are operating, they have a number of years when, in terms of their operating costs and the rents that are required to maintain buildings without deterioration or with some kind of reasonable profit level, the rent increases lag behind the cost increases and lag behind what is basically in my mind the spirit of the act, which is to have these things move more or less in tandem.

When inflation turned down, assuming we have a cycle, you would think you would catch up, but I submit that this is unlikely to happen, because just in observing political reality, it is fairly likely that if you have a three per cent inflation rate and a statutory increase that is seven per cent, there is going to be enormous political pressure to change the formula. It is going to be hard to justify rent increases that are more than double the inflation rate.

Consequently, you have a situation in which, if inflation is rising, rents will lag considerably behind and can go for a long time behind the inflation rate. When you go to a period in which inflation comes down, the catch-up should take place and rents should be higher than inflation, you have the makings of strong political pressures to change the formula, which would then break the agreement and also prevent landlords from catching up.

Therefore, the amount of uncertainty is quite considerable and the remedy is very simple. The remedy is to scrap the three-year moving average and go to the shortest lag period you can have, which would be, say, to use the inflation rate from July 1 to June 30 in the previous year. Therefore, when you announce in August of this year what the appropriate rate should be, it should be the rate of inflation that occurred from July 1 last year to the most recent June 30.

That does not eliminate the problem, but it does reduce the lag by half, from three years to one and a half years. To determine the effect of doing that, using the same numbers I used here but recalculating what would have happened--I am sorry they were not on the sheets I gave you, but I did recalculate them--the effect of doing that is to reduce the lag usually to about two years of rent changes running behind inflation. It cuts down by a considerable amount the maximum difference between the inflation rate and the rent increase. In my example, instead of its being 4.11 per cent, as we see in both 1989 and 1992, we get only a three per cent maximum difference. It is not perfect, but it is better.

My first recommendation, then, is to make the formula work and to increase the probability that it will continue by getting rid of the three-year moving average and going to inflation in the most current period of



the previous year. Of course, if you want a precedent for that, that is how all the indexing is done at the federal level.

The second of the three issues I want to talk about deals with operating costs under rent review. Basically, Bill 51 calls for operating costs under rent review to be equal to the residential complex cost index formula minus one per cent. That is, if you go to a rent review hearing, what you get in terms of your operating cost is the RCCI formula less one per cent, the one per cent being a price landlords pay in order to go to the rent review process. This is in place of landlords documenting their costs, as they do at present, to try to justify increases in operating costs. A formula replaces that.

Going to a formula is a major positive step; I am not questioning that at all. My comments here deal only with the impact of the minus one per cent, because the minus one per cent has the effect of--let me just step back from that for one second.

There is one other thing that happens when you go to a formula that I want to mention but not deal with tonight: That is, it has a differential impact across buildings according to the expense-to-rent ratios. It does not hit all buildings in the same way. Since that requires major surgery to be changed, I do not want to deal with it, and I will take that as a given. What I want to talk about anyway is the more important economic issue of the consequences of the minus one per cent.

The minus one per cent acts as a cost or a penalty for landlords when they go to rent review. The impact of this will be to discourage greatly capital expenditures. The reason that happens is that capital must be large enough to recover the penalty cost before you get into a position where rents are going to rise. In order to see this, consider a building with a \$200,000 rent roll. Then, regardless of what the RCCI formula would be, the fact that you go to rent review because you have made capital expenditures means immediately that you get one per cent less than you would have obtained had you just accepted the statutory increase.

19:30

In this case, it means there is a \$2,000 cost or penalty to the landlord for that, which is supposed to be recouped by virtue of whatever advantages you get by going to rent review. However, if you take a typical capital expenditure as being one that has, say, a 12-year expected life and a likely interest rate of about 10 per cent, that will tell you that you require a capital expenditure of \$15,000 to generate a cost increase because of that capital expenditure of \$2,000.

In other words, the first \$15,000 of capital expenditures on that building, or capital expenditures equal to approximately 7.5 per cent of the rent, are not going to yield any increase in rent to the landlord, because he could be in the exact same position as having made those expenditures had he not made those expenditures and just taken the statutory increase.

The question then is, why would a landlord make those expenditures? There are some you have to make, but the impact is that the overall effect of this is to discourage capital expenditures on existing buildings, which will accelerate deterioration in the housing stock and is exactly the kind of problem you want to avoid.

Let me push that one step further. It is not only the first \$15,000 that is impacted. It is the fact that there is no return on the first \$15,000, or on expenditures equal to 7.5 per cent, that matters. If you get \$30,000, you would then end up getting a \$4,000-rent increase due to capital expenditures and you would have lost \$2,000 because of the formula, so you would gain \$2,000. However, since that is now on a \$30,000 expenditure, not a \$15,000 expenditure, instead of getting a 10 per cent return, you get a five per cent. Pushing it further, if you made a \$60,000-capital expenditure, then you would end up getting a 7.5 per cent return on the basis of the numbers I am hypothesizing.

What happens is that the rate of return on capital that you think is going to be forthcoming is being pushed down from zero on the first amount, equal to about 7.5 per cent of the rents, and then starts to rise, but it is always going to be below the nominal amount.

The impact of that, as I indicated, will be for a rational landlord to avoid making capital expenditures that require him to go to rent review very often. This means the postponement of capital expenditures. It means bunching them so that you get \$60,000 in one shot rather than \$15,000 over four years, so that you pay the penalty only once, not four times. All of that--delay, postponement and bunching--means accelerated deterioration of the housing stock.

To put this problem in perspective, let me refer you to three studies that were brought up in front of the Thom commission, which investigated rent review. Two of those, one by Ekos Research Associates Inc. and another by Peter Barnard and Associates, indicated that 30 per cent of the low-rise rental housing stock could be lost to the market within 10 years and 50 per cent by the end of the century. The two studies were not really independent; they overlapped, so you may view them as one study, if you want, but two research groups put them out.

They indicated there was a severe threat to the low-rise housing stock at the moment, primarily coming by way of deterioration and stock likely to fall out of the market. I am suggesting that this threat will be greatly accentuated by the provisions of Bill 51 if the incentive for capital expenditures is that you get no return on expenditures equal to basically 7.5 per cent of the gross rent.

With respect to the high-rise stock, architects Klein and Sears presented a study in which they indicated that the high-rise rental stock over the next 20 years will require expenditures of \$11,690 in 1982 dollars. Those expenditures of just about \$12,000 are required for conservation and are over and above the normal expenditures that would be required to maintain buildings. Again, they were concerned that there would be continuing erosion and deterioration of the high-rise stock because of disincentives and lack of cash flow for landlords to maintain their properties.

I am trying to draw to your attention a major problem that exists today, according to these studies, which is that the existing housing stock is at the point of being threatened. These studies indicated that the stock had not yet fallen into disrepair or dilapidation but was on the verge of becoming that way and that this bill is going to accentuate that problem by not providing a return on capital expenditures, or at least by watering it down.

The solution is simple. It is to remove the one per cent penalty for capital expenditures. Because capital expenditures refer to an additional outlay of funds, if you expect that landlords are looking at capital markets with alternative returns, it is reasonable that they are going to seek to invest funds with a return, and it is not unreasonable to provide a competitive return.

Let me make two more comments on this issue before I turn to the final one. The legislation has some positive effects as well with respect to capital expenditures. One is that capital expenditures that lead to cost savings, such as better insulation, caulking the windows or roofing, will be encouraged compared to the present system, because those cost savings will not have to be passed on in the form of reduced rents. The reason for that is that there is a formula that says if a landlord can become more efficient and more energy conscious or whatever, those savings can accrue. There is a return for that increased efficiency. Notwithstanding that, the general negative effect of the one per cent penalty before you get into a return on capital expenditure means that, on balance, all capital expenditures are going to be hurt, except that some are not going to be discouraged as much as others.

I was going to go into the impact of costs no longer borne with respect to capital expenditures, but in the interests of time I will not do that, other than to point out that works in the same direction. The costs no longer borne to which I am referring here means that on recurring capital expenditures, 80 per cent of the previous expenditure is deducted from the new expenditure before you determine the cost base that qualifies for a rent increase.

The point is that it again works in the direction of discouraging capital expenditures, because you increase the probability that these expenditures will not generate any extra return. Therefore, they would be additional outlays of funds generating no extra return for the landlord. In the view of a profit-maximizing landlord, it is an inappropriate use of his funds. As I indicated, the remedy to this whole problem is simply to remove the one per cent penalty for going to a rent review hearing with respect to capital cost items.

The final area I want to talk about is the issue of chronically depressed rents. In this case, I think you are all familiar with what the bill sets up, namely, the legislation provides for an additional two per cent increase for rents that are chronically depressed where the amount of the depression in rent is more than 20 per cent and the rate of return on equity is less than 10 per cent.

In my opinion, this is a sham. I am going to argue not only that it is inequitable but also that it is likely to have very negative effects on landlord incentives and on the economy in general. In fact, it calls into question not only the economics of these buildings that are chronically depressed but the whole viability of whether you are going to get increased construction, the new housing starts you want and everything else. Let me dwell on that for a couple of minutes to illustrate the interconnection.

First, let us look at the problem. To begin with, the problem is that two per cent is too little. Why is it too little? Before we do anything else, consider a situation where a chronically depressed rent is at \$350 and the market rent should be \$500, forgetting about how we get the market rent. For the sake of my numbers, let us assume a residential complex cost index formula



of five per cent. If you do that, it turns out the rent increase that would be allowed on the \$500 rent, the normal one, would be \$25. The rent increase that would be allowed on the chronically depressed rent would be \$17.50 for the five per cent increase and \$7 for the two per cent chronically depressed component. Therefore, the chronically depressed rent will go up by \$24.50, the undepressed rent will go up by \$25 and the depression increases by 50 cents.

19:40

I have cooked the result a little, but I did not cook it very much. You have to remember that if the rent were \$400, it would not qualify as chronically depressed any more; so there is very little way in which you can make inroads. Furthermore, all I have to do is raise the RCCI formula to six per cent or seven per cent and even at \$400 I can end up with the same result I just gave.

In other words, it is no catch-up at all if you talk about the gap in rent. It is also inequitable, because everywhere else in the act when you talk about catch-up or below economic rents or something like that, usually it is five per cent that is envisioned. For example, it is five per cent on financial loss; it is five per cent on post-1976 buildings. In some cases, it even gets to 10 per cent, but the norm is five per cent, except in this case, where it is two per cent, and two per cent does not do any good.

Even if you picked a number, like five per cent, which would be consistent with what is embodied in all the rest of the act, you still come to the next problem, which is the 20 per cent below prevailing rents, remembering that those rents are already depressed. If what I said at the outset of my comments is an approximate measure of the true depression, which is about 10 per cent, then the rent you are comparing with is already depressed by 10 per cent from what it would have been in a noncontrolled world. Leaving that alone, the question is now whether this rent should be 20 per cent below whatever that rent may be. I cannot find any justification for that at all.

It seems highly inequitable that a group of landlords, because of treating tenants kindly, because of ignorance or because of any other behaviour you want to attribute to them other than profit maximization and unlawful activity, end up in a position where their rents are significantly below what the market would be. In other words, the law-abiding or ignorant landlord--whatever adjective you want to choose--gets penalized, with no provision to catch up.

Besides inequity, I am going to talk about the economic consequences of this in a minute. Equity matters, but if you do not want to buy the equity argument, you may want to buy the pragmatic argument that it will have a big impact.

Third, the question of the 10 per cent return on equity to be a qualifier for the catch-up is completely unworkable. It is not definable. Testimony in front of the Thom commission gave up on any attempt to work on return on equity. It would be a quagmire that just cannot be defined with any degree of economic reality or sense. At best, some arbitrary dictum will be imposed, with no rationality whatsoever.

That said, the question is, besides fairness, what are the economic consequences of keeping a two per cent chronically depressed catch-up instead of something more reasonable, such as five per cent--reasonable in the context of everything else in the act? What is the logic of saying 20 per cent below?

First, as I have indicated, it is inequitable to penalize some landlords by saying, "The best you can ever hope to get is 20 per cent below what everybody else may have had."

Second, it is going to lead to more deterioration of that housing stock. Landlords find themselves in a position where they are not getting the revenues to maintain properties. In fact, it is even worse than the situation now, because once this bill comes through that way, there will be a clear signal that the problem has been recognized. The problem will have been recognized, because you will have dealt with it. Right now people think: "Maybe nobody knows. Therefore, when they realize our plight, we will be okay. We will keep our properties going, because some day we are going to be able to catch up." However, once this comes in, that is gone, because it is clear; it is recognized that they have a problem, it is dealt with, it is confirmed and it is going to stay in perpetuity.

The effect of that is to cause deterioration, because there is no revenue flow to not deteriorate. On top of that, the incentive is all against you, and your absolute rent gap keeps increasing. It does not shrink even with the two per cent. Either you let your property deteriorate or you go the other route and sell it. You ask, "Why would anybody buy it?" People will buy it, because then you come out of the chronically depressed catch-up and you fall into the financial loss catch-up. The provisions on financial loss allow you to take five per cent of the rent, assuming you have a financial loss, and you will on all these properties, so you can take that as a given. Then you will be able to move up not only by the statutory increase or the residential complex cost index formula but also by five per cent. Therefore, you will not be confined to two per cent.

Any new buyer will be able to move those rents up anyway, except now you have forced one group of landlords to sell out to another group. I do not want to say the new group may have less desirable characteristics as landlords, but at least you are penalizing a group that has been there for a long time, whose investment interests could have been thought of as being relatively pure if only by their actions in getting themselves into this mess in the first place.

The other thing is that if you sell the property, you get rid of that problem of being chronically stuck with 20 per cent below the prevailing rent elsewhere. You might ask how that helps the person selling. The way the market works, some amount of future rent increases will be capitalized in the existing selling price. Therefore, the person who is selling will find that some of the increase that will accrue to the new purchaser will spill over to him or her and they will be better off by selling and capitalizing that extra three per cent, the difference between the two per cent and the five per cent, without the 20 per cent constraint.

The incentive is there to sell. The rents will gradually work their way up anyway, but a different group of landlords will come in, a different group of people will reap the benefit and the people who really require assistance will lose. Where are we? If you leave this, we are in a situation that will lead to either deterioration of the existing stock or more sales of existing stock, neither of which is a desirable outcome.

Finally, we have one more problem in this whole area in terms of economic effect. The existence of units with chronically depressed rents where the rents are not moving towards market poses a major problem for the viability of the whole rental system. What happens is that the gap between the

rents on these units and the rents on other units--for the sake of argument, let us say the newly constructed units--will widen rapidly. If that gap widens, it will put pressure on politicians to change again.

As there is more construction, a larger component of the population will be housed in these newer units. These people will look at buildings with chronically depressed rents and say, "Why am I paying three times as much rent as my friend in that building? It is a bit older, but there is not that much difference." If that gap keeps growing--and already there is a 40 per cent gap just on average--the pressure keeps growing to do something to change the system with respect to the rent increases on the noncontrolled or at least on the new construction, which is not really under a binding control.

The effect will be that there is a high probability that the system put in place here will not last. We come back to my original comment that you will only get new construction if it is believed the system will last. I am suggesting that unless something is done for the chronically depressed rents so they have a chance to move up towards market at least a little bit, new developers will say the system cannot last as it is laid out here because the rental gap will be so great that the political pressures will be too much to withstand.

As an increasing proportion of the population falls into that category, the system will be broken, the formula will deteriorate and the incentives landlords or developers have to build will be taken away before the benefits accrue to them.

Therefore, if equity and deterioration of the stock does not matter, the existence of these chronically depressed rents poses a threat to the whole workings of the act and, eventually, to all new construction.

19:50

Consequently, I suggest the solution here as well is to raise the increase in rents due to chronically depressed conditions to five per cent and eliminate the criterion that rents be 20 per cent below those on comparable units. We should allow them to go up to rents on comparable units or, if not all the way, at least a minuscule difference of, say, five per cent, although I would say there was no justification but to go all the way. We should also eliminate the concept of the 10 per cent return because it is a meaningless concept.

The solution here is to allow chronically depressed rents to move towards market at the same five per cent catch-up as other categories and eliminate any penalization that is currently there by saying you must always have a 20 per cent loss in rents or a shortfall in rents.

If those three things are done, there will be a vast improvement in the way Bill 51 will work through the economic system.

As I see it, a number of the major problems with the bill will be remedied. If these changes are not made, we are encouraging, in each instance, more rapid deterioration of the existing housing stock and a continued crisis in the availability of affordable housing and one that will actually be accelerated rather than be reduced. The deleterious effects on the existing stocks will increase any incentive effects on new construction.



Mr. Chairman: Thank you, Professor Smith. Are there questions from members of the committee?

Mr. Jackson: Thank you, professor. Your first summary and conclusion talk about the legislation providing incentives for new construction. I was trying to pick up, either in your written comments or your verbal presentation, that most all new construction will be encouraged at the top end. Do you share that perception or view that that is the area where all this--

Dr. L. B. Smith: It is almost always the way to get new construction, but that does not mean that the effects of that new construction do not spill throughout the market.

Let me step back. By that question, I assume you mean new construction taking place in the absence of major government incentives such as rent geared to income, public housing or stuff such as that. For market housing, yes, it is always going to be at the upper end or near the upper end. Can I take a minute to answer your question and talk about how the system works right now?

Mr. Jackson: The reason I wanted to get into it is that we have heard various points of view and speculation on how the ripple-up effect works, whether it would work and to what extent and what type of program will be required by the minister underneath this legislation to develop an across-the-board type delivery of housing.

Dr. L. B. Smith: Let me begin by talking about the ripple-down effect that we have now. It is not quite the same because there is not quite the same asymmetries. It is clearly what is happening now in the perverse downward effect. Then you are going to get the desired rippling effect you want with this construction.

Let me talk about the negative effect you get right now. Rent controls right now hurt most severely many of the groups they desire to help the most; mainly, what economists would call high-cost tenants. High-cost tenants are tenants who impose a cost to the landlord in the sense that there is a risk that they will not pay their rent, that they may move--

Mr. Jackson: Depreciation.

Dr. L. B. Smith: --or that there could be extra depreciation. As a result, these high-cost tenants are usually considered to be large families because they use the facilities more and they get worn out more just by virtue of more people in them. They are families as opposed to adult-only, larger as opposed to smaller, lower income as opposed to higher income mainly because of the risk that they will not be able to pay their rent if their incomes are lower.

In a world in which you cannot ration by way of price and in a world in which there is a queue for housing because there is a shortage and any rent-controlled units--let us talk about pre-1976 units, so we do not get into the question of whether rents are below what would have prevailed--whenever you are dealing with those situations, the below-market rent and when there is a queue, landlords are faced with a whole choice of people whom they can choose among in renting an apartment.

What they do is to ration the apartments, not by who will pay the highest price but by who will cause them the least trouble. They tend to be preferred tenants, meaning more stable, a single person as opposed to large family, middle-aged as opposed to very young, higher income as opposed to lower income. This means, to start with, the best housing goes to these people.

However, since they cannot get into that, when anything in the moderate or middle-quality housing comes up, because of the shortage at the upper end, the more preferred tenants now are forced down into the intermediate-type housing. This means that the second range or next degree of preferred tenants, when units come, cannot get into the kind of housing they normally would have had and they move one notch as well into what in the hierarchy may be lower-quality housing.

When you work all the way through, those who come out of the bottom end, even when you get down into the housing that was occupied by the poorer households, are now sort of the middle-income people who have moved into that housing, and there is no place for those other households to go, forcing them basically to be unhoused. The group went through this sequence. It gets pressed down.

Because of lack of availability at the upper end, you get the push and squeeze that is increasingly going to come to the fore in the next few years at the lower end as we get increasing shortages. The group that is going to be squeezed the worst is going to be the lower-income, large-household family.

If you then think about building more housing at the upper end, I am not saying you are going to eliminate that, because I think you are going to have that downward pressure for quite a while, but you are at least going to remove some of the tension on that pressure. You can think of it starting to work in the opposite direction, but it is not going to work in the opposite direction for quite a while, because of the shortages. All it is going to do is take the pressure off those coming down.

I am not sure that answers the question. The point is that it is going to do some good, because it works all the way through the system, but it is going to be hard to see at the lower end to start with.

Mr. Pierce: Professor, in your opening remarks on page 1 you almost underlined the fact that there is a notable exception, and that is in the new construction as a result of Bill 51.

Dr. L. B. Smith: Yes.

Mr. Pierce: It is mainly the new construction.

Dr. L. B. Smith: That is right. The exception you are referring to means it is a problem that the bill will mitigate.

Mr. Pierce: Okay. You have given your reasons for that, but at the same time we recognize that the new construction will be in luxury apartments, the much more desirable high-rental accommodations, as opposed to low-rental, low-income or middle-income types of accommodations.

Dr. L. B. Smith: That is right.

Mr. Pierce: You refer to the ripple effect, but indications show us there are more people coming on stream looking for accommodations than there are accommodations, so that the ripple effect is not necessarily going to be there and there are not going to be accommodations for those people who are still out there looking today.

Dr. L. B. Smith: If you ask me whether rent controls reduce available supply, the answer is yes; there is no getting away from that. If you put on controls, you hold price below what it would otherwise have been and you are going to get less construction. The effect of rent controls--

Mr. Pierce: Will Bill 51 take away that disincentive and now provide more rental accommodation?

Dr. L. B. Smith: If the bill is going to be believed, which is the incentives provided for new construction--and when I say "incentives," they are not really incentives; they are just a matter of allowed returns that developers could live with as opposed to more stringent ones--there is nothing in here that gives an incentive.

Let me clarify. There is nothing in this bill that provides an incentive for the builder to build that he did not have before rent controls came in or before new construction was brought under the act. All I am suggesting is that if you ask what this bill is going to do, in the world of controls that could have been imposed, I am saying sufficient incentives are still left that there should be some reasonable amount of building.

Having said that, the thing to recognize is that the new building probably will not be sufficient to alleviate the housing shortage at all. The deterioration in existing stock in this bill, even with the things I am saying, will probably be such that the best you can hope for is maybe to have a balance. What you are losing out of the existing stock you will be replacing with new. You might get a little gain if you add some other creative government programs to it.

20:00

The only thing is that more building is better than less building. More stringent controls would mean less building, maybe none. We will be better off, and there will be more housing, with the structure that is imposed here than there would be if there was a more stringent set of controls imposed on new construction. However, you would be much better off, which I did not really want to get into tonight, in alleviating the housing shortage problem, not by imposing controls on new construction and everything else, but by getting rid of controls entirely.

There are ways to do it. I do not mean just taking them right off. There are ways to phase them out. However, if you are going to live with controls, then the question is, is this a reasonable way of doing it? With respect to new construction, I would have to say yes. There are things in here that builders and developers should be able to live with if they are able to believe those controls will not be tightened on them over the course of the life of those buildings they build.

The effect of that at the low end of the market is that it prevents the squishing down that I described a few minutes ago. It is not really going to help because there will always be a shortage. Those people I described as



losing the most are the ones who are always going to lose the most under the system. However, to some extent, it will relieve the amount of pressure hurting.

If you look at it and ask, "My goodness, has that problem gone away?" the answer is no. You are going to look at it and you are going to say this is a problem five years from now in this type of a format, with whatever incentives you put in here. The only thing is that the problem will not be as great as it would have been if you did not have those buildings being built. It is a gain in the sense of being better than it might have been. In the sense of whether it will eliminate the problem, no, it will not.

Mr. Chairman: I would like members to be brief since we are half an hour behind and we have three other briefs to hear from.

Ms. E. J. Smith: I will be very brief. It is obvious that tremendous problems exist in the market now and, looking at it from the point of view that you are talking about, the ideal solution is no rent control at all. It would be simply to make the market factors operate.

You have to look at the bill from the point of view that we recognize that we cannot be too disruptive to society. This is part of what the whole bill is addressing: the balance between the needs of the landlords, to draw them back in, and the tenants, to keep from being too disruptive. I have to look at it as looking for less than the perfect, because our situation is less than perfect.

Dr. L. B. Smith: Actually, I tried to address that in my comments by saying I was dealing only with the three issues that I did not think--

Ms. E. J. Smith: I agree. In the one issue, with the financial costs resulting from the purchase, I am having trouble visualizing people getting into such a complicated setup that they will really buy at a cost that the five per cent they are allowed in their initial year will be only a first step. They are really looking ahead two, three or four years in planning, five and then five and five. Why would they do that?

Dr. L. B. Smith: Because it is a certainty. I will state categorically that that is what people do. The reason is that if you have a building where the rents are chronically depressed, for example. You know that if you would be allowed to raise rents five per cent a year, over and above whatever anybody else is doing, for the next five years, you are still going to be below the average rent. Then you know you are going to be able to do that. Even if there is a recession, a depression, your rents are so low that while the rest of the world is suffering and vacancies are arising, your rents are still going to be able to go up relative to everybody else's because they are starting at this very low level. The rents have been held down for an enormous number of years.

Then you say to yourself: "If I project five years ahead and I can see my rents are going to go up by whatever my costs go up, plus five per cent more a year for five years so there is some increase in my real return, I can then see what amount of money is going to be coming in on this building and I can say what this building is worth." In other words, you can value that income stream the same way you can value a bond or a stock with dividends or anything else, except you know for sure you are going to get that increase.

You can negotiate with the existing owner, because you know what the building will be worth in five years. You now can see how little you have to pay to buy it versus how much of that extra value he can extract from you in the bargaining process, and some sawoff results in which you and he end up in the middle.

Ms. E. J. Smith: Surely if the market is not opening up at the other end, but when you are chronically depressed, you are 20 per cent below the market. You are talking now of coming up five per cent a year in the hope that the market is getting more normal. At the beginning of your presentation, you do say this new bill is bringing more money into the market.

Dr. L. B. Smith: Yes, because now there is none, but I do not see it as bringing the equilibrium amount into the market. I do not see this bill doing away with the problems of rent control; quite the opposite. On balance, as it is written, I think it will exacerbate the problem. The only way it is constructive is that it does not impose as stringent a set of controls on new construction as to inhibit that, if people accept that there will be no changes during the lifetime of their building.

Ms. E. J. Smith: From your research, how often would you say buildings usually change hands? What is the pattern?

Dr. L. B. Smith: We actually looked at that once, a number of years ago, but I cannot remember the turnover rate.

Ms. E. J. Smith: We are talking about pre-1976 stock. We will be into 1987 by the time we get here; so we are talking about stock that is already 11 years old.

Dr. L. B. Smith: I cannot say. I am just guessing when I say something in the order of every 15 years. I had better not even say that, because there are different kinds of buildings. Some turn over rapidly many times; others, owned by major developers, almost never get sold. Rather than selling directly, they sell control of the company. It is difficult to say. We are talking about different types of buildings and different types of landlords across the market.

Ms. E. J. Smith: Can I ask the ministry people whether this was discussed much by the Rent Review Advisory Committee? Can you make any meaningful comments in that regard?

Mr. Church: Yes. the RRAC wrestled with all the concepts Dr. Smith has raised, and it is fair to say that none of them would come as surprises to the members of the RRAC. I think most of them would agree with his observations on the effect of some of the components of the bill but would disagree quite strongly about the impact of no chronically depressed rent relief relative to two per cent.

The way the RRAC people summed it up, and we have used many of the same examples Dr. Smith used, was that without the two per cent relief, the landlord falls behind by \$8 per month per unit; with it he falls behind by 50 cents per month per unit. It is imperfect and it is not even desirable, but it is a heck of a lot better than the alternative. The reason two per cent is the limit is, as we have said before, that this is a compromise package in the balance.

The landlords did hold out for five per cent for a very considerable period of time. The tenants would not agree to that and they held out for zero. This is one of the areas where no agreement is reached. The government, on considerations of affordability and impact, are recommending two per cent.

20:10

Ms. E. J. Smith: Judging by that, you would say that rather than considering this a cosmetic suggestion, the RRAC would consider it rather central to the negotiating done with the two parties?

Mr. Church: Absolutely. I have to be very careful. This issue is fundamental to the agreement, but this particular percentage point and this particular issue have not been agreed on. There remain differences of opinion. I can say categorically that the view that providing this form of relief would worsen the situation because somehow it would reduce the political visibility of the suffering of the landlords is rejected out of hand by everybody at RRAC, including, I presume, the tenant members.

Dr. L. B. Smith: That is taking out of context what I said, though.

Mr. Church: That is certainly what I took out of it, Larry. I am sorry.

Dr. L. B. Smith: I am saying that once the problem was recognized, to recognize and not deal with it is, of course, the largest impact.

Mr. Church: Yes, fair enough.

Dr. L. B. Smith: The problem has now been recognized. To do nothing is worse than to give two per cent. I am not saying that, but I am saying that to recognize it and give two per cent is worse than not to have recognized it. They are different things.

Mr. Church: Given that interpretation then, Mrs. Smith, the RRAC committee members individually have certainly recognized the effect for a very considerable period of time and disagree that it is worse to do nothing. At least the landlord members do.

Dr. L. B. Smith: Once it is recognized, you cannot go back and unrecognize it. That option is gone.

Mr. Chairman: Mr. Epp, do you have a short question that will elicit a short reply?

Mr. Epp: Yes, Mr. Chairman. I am mindful of the time and mindful of your admonition to be brief, and I will try to do that.

Dr. Smith, just two things: First, do you believe you can inject the changes or amendments you have suggested without fundamentally changing the bill?

Dr. L. B. Smith: Yes.

Mr. Epp: You think you can.

Dr. L. B. Smith: They will not fundamentally change the bill. I do not know what they might do to the consensus agreement. As far as I can tell, there should be nothing in anything I have suggested that would change what I



perceive to be the spirit or the desired objectives of the bill on all parties. I think it would go a long way in changing the economic impact that would be the effect of this bill.

The same way as to say, if I can go back to Mr. Church's illustration, two per cent as opposed to zero is to give the landlord \$7.50 more a month, which I would say he would need having those chronically depressed rents, but whether that will materially affect the economics is something else. I would say no; therefore, I think the changes I am suggesting could have profound effects on the market and how things would function, but I do not think they would greatly affect the spirit of the act at all.

Mr. Epp: I have another short question and I want to solicit a short answer. The fact is that you are from Toronto, and I presume a lot of the statistics were from right across the province, the application of which you are suggesting would have a similar application in other parts of the province.

The second part of that is, do you know any place in the world where your solutions have been tested and have been found not to be wanting or at least tested?

Dr. L. B. Smith: Most of my comments are based on Toronto. There are places such as Ottawa that are experiencing somewhat different market conditions temporarily, but over a long enough time period most of the effects will be universal, which leads into my second comment.

There is no place where my comments tonight have been tested that I know of because I do not know of any place where--

Mr. Epp: The theories you are suggesting.

Dr. L. B. Smith: If you want to talk about the effects of rent controls and regulation, I would say the effects are pretty well universal. Restraint and control of rents has certain effects, and they have been demonstrated in almost any jurisdiction where controls have come in. The only question is how rapidly those effects take place. That depends on the stringency of the controls and the nature and tightness of the market into which the controls are introduced. The direction of impact is universal.

Mr. Chairman: Professor Smith, thank you for your presentation. It is a very thoughtful one, and the committee appreciates your contribution very much.

The next presentation is a joint one from the Stonegate Community Centre and 323 Park Lawn Road Tenants' Association. Are Ron Billings, Mary Strizzi and Jeff McCabe here? I hope I am pronouncing the names reasonably closely to the way they are meant to be pronounced. Welcome to the committee. We are pleased you are here. How do you want to do this? How do you want to split this up?

STONEGATE COMMUNITY ASSOCIATION AND  
4 CROWNHILL TENANTS' ASSOCIATION

Mr. Billings: Perhaps I can explain the way we are hoping to do this.

Mr. Chairman: Will you identify yourselves?

Mr. Billings: My name is Ron Billings. I am president of Stonegate

Community Association. What we are hoping to do tonight is divide our time into roughly 15-minute blocks so we can cover six from our area instead of just three.

Mr. Chairman: I am having trouble hearing you.

Mr. Billings: I will stand.

Mr. Chairman: No, sit down. The microphone is there in front of you.

Mr. Billings: We would like to divide our time slots. Instead of half-hour periods, we will divide it into 15 minutes, thus allowing six representatives from our area to speak instead of the normal three. We are dividing our time with Mr. McCabe from 323 Park Lawn Road and the next two speakers will be divided equally, being Mr. Thrasher and Mrs. Martha Jackson.

Mr. Chairman: Excuse me. I am already uneasy.

Ms. Strizzi: We will be very brief.

Mr. Chairman: We have scheduled half an hour for each presentation. I know that is not long, but if we were going to schedule everyone who wanted to appear, we had very little choice.

Ms. Strizzi: We are all members of the same community association, but we have individual tenants' associations within this and each one has one special point to make.

Mr. Chairman: Okay. Proceed.

Ms. Strizzi: My name is Mary Strizzi and I am going to do the overall brief representing the community association. We are here today speaking on behalf of the residents of the Stonegate area located in the provincial riding of Humber and ward 2 of the city of Etobicoke, represented by Jim Henderson, MPP, and alderpersons Julie Lyons and David Lacey.

The Stonegate area is situated north of the Queensway, south of Bloor Street and west of the Humber River. Within this area, there are approximately 72 low-rise apartment buildings and some sixplexes, surrounded by single family dwellings. This area is home to more than 6,000 tenants. It was developed in the 1950s and early 1960s and the majority of the apartment buildings are in need of major repairs due to extreme neglect of proper maintenance.

The people of our area have a major interest in Bill 51. There is a chronic shortage of adequate rental housing and inadequate enforcement of laws governing existing rental housing. We agree that legislation governing landlords and tenants is inadequate. Both landlords and tenants need protection against people who defy laws and abuse property and the rights of all parties.

We agree new legislation is required, but the focus should be to make the system more equitable for tenants, more understandable and more enforceable by all parties, not just the party with the most money that can afford the best lawyers. This is especially true here in Ontario where ownership of rental housing is concentrated in groups that have considerable financial resources. There are far more rich landlords than rich tenants.

We have serious objections to the new legislation. These are some of the major concerns voiced by the residents of our area:

Regarding the residential complex cost index, the formula for determining the cost index, schedule A of Bill 51, includes two per cent on top of all other costs. Two per cent on \$400 monthly rent over the first year results in a \$96 increase per unit, and this amount will continue to compound each year thereafter, as we understand it. The two per cent bonus should be removed if the cost index is to reflect true costs and not costs plus bonus.

We have a problem with the sections dealing with chronically depressed rents and illegal rents. As we see it, the term "chronically depressed rent" is really a curve ball in the rental game. During the past 10 or 12 years in the rental market in Toronto, we have never known of a landlord who did not take advantage of every possible increase available. Rather, the history of rents in Toronto is a history of tenants fighting illegal and unjustifiable increases. We can only conclude that the rents at the lower end of the scale are the only legal rents still available.

20:20

Chronically depressed must be what the honest landlords feel when they see dishonest people defy the law and then get amnesty as proposed in Bill 51. These people are further rewarded for their dishonesty by allowing them to continue to collect rents at these inflated rates. The old saying, "When business robs the people, it is called good business," is true. It is not the chronically depressed rents but the rents that fall outside that category that should be scrutinized carefully. Dishonesty should be punished to the full extent of the law, not rewarded.

We have serious concerns regarding rent equalization. On the surface, rent equalization within buildings seems a reasonable idea; however, on closer examination, there are serious consequences. If you consider a building with similar one-bedroom, two-bedroom and three-bedroom apartments, how do you take the following considerations into account: whether an apartment in a basement is comparable in value to one on the upper floors; the size of the rooms and whether there is a balcony; the general condition of repair, floors, walls, etc.; the condition of appliances?

Under Bill 51, the equalization increase would be added as a surcharge on top of normal increases. If the present tenant moves out, a new tenant must pay the full amount of equalization immediately. This leaves existing tenants vulnerable to harassment and being forced out by the landlord, to enable him to collect the full amount allowable under this legislation sooner. Consider the hardship this will create for tenants as vacancy rates are still less than one per cent. Think of the homeless and people living in substandard housing. Think of the implications for our society as a whole.

We also have a problem with the legislation governing sales of buildings. We recognize that there are legitimate reasons for apartment buildings being sold, as in any other business, but according to this legislation, unlike other businesses, the new landlords are virtually guaranteed a profit. If a landlord buys a run-down building, he inspected it before the purchase and had an opportunity to reflect its condition and depreciation on the purchase price.

As things stand, the actual value of work means nothing. A landlord applies for relief of hardship on financing and the cost of repairs. The



tenants' rents are increased to meet these demands, even though the tenants have gained nothing. They are burdened with the cost. The process keeps repeating. All costs apply to the tenants; all profits to the landlord. Today, housing has become the unaffordable dream of the people who are forced to bear these costs.

If a rent registry had been established 10 years ago, we would probably have eliminated a lot of the issues we have to deal with today, especially illegal rents. A rent registry should be put into effect as soon as possible. The rent should be established and recorded as far back as possible, at least to 1976, and all rents should be available to past, present and prospective tenants. All illegal rents should be returned to the tenants and penalties imposed on landlords responsible for illegal rents. Moneys collected from illegal rents which cannot be returned to the original tenants should be collected by housing authorities and more equitably placed in a fund for government housing standards.

The subject of maintenance and repairs has long been a joke to landlords. It has been our experience that repairs are made eventually if the tenants do them themselves or if they endure the hardship of forcing the landlord to comply with the law. The latter is very time-consuming. Maintenance and repairs constitute part of the rent paid to the landlord and should not require long battles. In our community of Etobicoke, the record of building standards' enforcement is one of inefficiency, poor service and poor results. Anything that is accomplished requires many months of phone calls and letters. The enforcement branch of building standards should have the authority to order repairs and bill the cost to landlords. This would result in the upgrading of maintenance to reasonable standards without months of delay.

According to the Toronto Star on August 20, the Minister of Housing (Mr. Curling) said this legislation represents the successful balance of interest. When you consider that some tenants in Ontario will be faced with increases running up to 20 per cent, we do not see a balance; rather, the scales are tipped in favour of landlords. If this legislation is an effort to encourage more rental housing, we want you to consider what the consequences will be in terms of affordable housing and the hardships this presents for the people you represent.

In closing, we would like to ask you whether the people you represent have a right to decent, affordable accommodation and what the consequences will be if these people are unable to find housing they can afford. Thank you for your time and attention.

The Vice-Chairman: Would the committee like to continue with the presentation or entertain questions on this section?

Mr. Jackson: Continue with the presentation.

Mr. McCabe: My name is Jeff McCabe, and I am here representing the tenants of an apartment building on 323 Park Lawn Road. I would like to make a correction to the first paragraph on page 1 of our brief, where it says no one in the building has an income that exceeds \$20,000. That is an error. There are some, but there are not many. The tenants of 323 Park Lawn Road cover a wide variety of people. We have old-age pensioners, some widowers, a number of young people who are starting out and a large number of students. Most tenants are paying between 25 and 30 per cent of their incomes in rent.

When this government came to power, as part of its recognition of the current housing situation, it had promised to keep rent increases down to four per cent. This new, proposed legislation calls for the implementation of an annual rent review guideline that will exceed the rate of inflation in most cases, calling for a greater chunk of our incomes to go to the landlord.

To give a specific example, one tenant in our building, Joan McGinnis, is an older woman living on a disability pension. Any rent increase greater than the rate of inflation would severely affect her way of life. As we know, pensions do not increase at rates greater than that of inflation, and a larger portion of her income would go to rent through these new guidelines.

No doubt this government recognizes and accepts the responsibility for providing housing for the homeless and those with low incomes. There are some rental units in Toronto where housing is affordable. We would like to keep these rents affordable. Should the increases called for in this piece of legislation be allowed, many in my building, as well as in the Stonegate area, could face not only hard times but also the hardest of times because of economic eviction.

We feel the section of the legislation dealing with chronic depression is completely abhorrent. If ever a piece of legislation was blatantly unfair and unjustified, this is it. As it stands, it would directly affect the people at 323 Park Lawn Road and could raise the rents at least 20 per cent over the next 10 years.

Rents in our building are lower than most in the area because the tenants take pride in and care about the building. Most of the work, such as cleaning around the parking lot, cleaning out garages and maintaining the apartments, is taken on by the tenants themselves. The landlord has virtually no maintenance costs when it comes to the repair or maintenance needed for individual apartments. The chronically depressed section would allow the landlord to increase rents when he does not have the right to do so. Rents are low in the building because the tenants have worked hard to keep them that way.

Also, there is a very low turnover in the building, which does not allow the landlord to increase his rents illegally. In many of the other buildings in the area the turnover is quite high. This gives landlords an opportunity to raise the rent every time a new tenant moves in. With the chronically depressed issue, we would be punished because of the work we have put into keeping our building as well kept as it is and because the landlord has not had the opportunity to increase rents illegally.

Pursuant to the theme of increases that offer no benefit, there is a section of the legislation that deals with the equalization right in our building. Rents for the same type of apartment may vary by up to \$60 per month. I will use myself as an example.

I am currently paying \$328 per month. This was prior to the rent review, at which the landlord got 8.57 per cent. He had just purchased the building, and his purchasing costs were included in the rent increase. With the equalization allowance, my rent could increase by two per cent, perhaps three per cent, above this. As I am currently a student working full-time--I will be going to work part-time once the school year starts--this additional two per cent cost will greatly affect my way of living.

Also, the equalization issue does not really give the landlord any benefit but does directly affect individual tenants. It causes them economic hardships to some extent, because of having to pay the equalized rent.

20:30

Another one of the disappointing features of this bill, as far as we are concerned, is a failure to protect us from the continual sale and resale of buildings and the subsequent rent increases because of the landlords' financial costs.

As I mentioned earlier, our building was purchased recently. The first thing the landlord did after he got the building was ask for a 25 per cent rent increase to cover these costs. We are thankful he received only eight per cent, but that is still double what we would have paid had the building not been sold.

There is a rumour going around that our current landlord is seeking to sell the building again. How many times must we buy the building for our landlords, and how many times must we be subjected to these huge rent increases? A point in fact dealing with this issue is what happened with the Cadillac Fairview buildings.

Also, why must tenants continually pay for capital improvements even after they are paid for? If my rent one year is increased because the landlord paints the halls, why is it not lowered when the rents have paid off the landlord's costs? Why must I continually pay if he does not continually paint?

If tenants are forced to pay for something for ever, they should at least have the power to veto certain capital expenditures. For example, if the landlord wanted to change the doorknobs on all the doors in the halls, perhaps an unnecessary cost, he might just be going through the motions in order to increase the rent. The tenants should have the power to veto such maintenance that is not necessary and some say about what maintenance they would like to see done to the building.

On the subject of maintenance, we are also concerned with the landlords' ability to apply to rent review in cases of extraordinary expenditures. We are concerned that landlords will fail to make their repairs gradually, that they will pile up the work that has to be done and therefore have a large maintenance cost, which they will use to generate a larger rent increase.

With respect to the maintenance board, we need a powerful maintenance board with the power to check on things as well as a board that will properly be funded for inspectors, unlike the current system of inspectors that exists for Etobicoke. The board should have the power to penalize landlords that fail to comply with its orders, not just to delay rent increases.

Tenant protection consists only of making landlords obey the law as everyone else must. In this bill, the rent registry should be the prime enforcer of legality. We are afraid it falls short of our expectations. It allows landlords who have ignored the rent review process to gain by their illegality. This insults not only tenants but also landlords who have obeyed the law.

We also do not like the idea of the registry recording the legal maximum rent rather than the actual rent paid. A disparity between what we pay and what the landlord may legally collect will act as an incentive for the landlord to find other tenants.

We ask for only what the government has claimed to promise us: a rent registry that records and enforces rent levels; a maintenance board that



ensures maintenance; a guideline for rent increases that will not allow increases greater than the rate of inflation and that will not keep up with our income; protection from speculation; and a voice in what we pay for.

The government has recognized our needs. Now we need to recognize that something is actually being done about them.

The Vice-Chairman: Mr. Billings, are you making a presentation?

Mr. Billings: No, I am not.

The Vice-Chairman: That completes your presentation?

Interjection: Unless there are any questions.

The Vice-Chairman: All right. I will entertain questions from the committee.

Mr. Reville: Thank you very much for coming this evening. Have you had an opportunity to discuss the bill with your MPP? You indicated that you are from Humber riding.

Mr. Billings: We have not had the opportunity.

Mr. Reville: It is probably be a good idea to let him know how you feel.

Ms. Strizzi: Excuse me. We are sending him a copy of our brief. I understand our riding is going to switch over to Ruth Grier in September; so she will be receiving a copy of our brief as well.

Mr. Reville: It is a good idea to get them both. I take it that you do not think the tenant representatives on the Rent Review Advisory Committee did a good enough deal.

Mr. Billings: In my opinion, they did the best possible in the circumstances. Not having been there, I cannot reflect on their actual performance on it.

The Vice-Chairman: Mr. Billings, will you speak up a bit? We have to get your voice on the Hansard record.

Mr. Billings: Not having been at the committee, I cannot reflect on the members' personal attitudes or whether they did their best, but I believe that both tenants would have tried their best to obtain an agreement.

Mr. Jackson: I have a supplementary on that point. At any point during the eight months of meetings and closed-door discussions with the Rent Review Advisory Committee, was there any opportunity for you to provide input to the nine tenant representatives, to receive any feedback to determine what direction those negotiations were going or to discuss the areas of final resolution and what areas those might be? Was there any feedback at all given to any of the presenters?

Ms. Strizzi: We were aware of the proposals. We did have an association meeting in our area. At that point, we were discussing it just among ourselves.

The problem with an area such as Stonegate is that not many people are aware of what is going on in the political arena. A lot of people are intimidated by the legal language. They are not articulate. They do not have the sense that they can have some input into this. It is very difficult to get people mobilized and to get them to input into those types of situations that we do not feel we have access to. We are just beginning to develop that in the area.

Mr. Jackson: If I can ask the question in another way, you did not have any linkage with the RRAC? I guess what Mr. Reville is asking is, and if I can ask his question in another way as well, did you feel at any point that you were a part of the process?

Ms. Strizzi: No.

Mr. Billings: No.

Mr. Jackson: Have you had an opportunity to have all the implications of the bill explained to you?

Ms. Strizzi: Yes. That is why we are here.

Mr. Jackson: By whom?

Ms. Strizzi: We received a copy of the RRAC proposals.

Mr. Jackson: Was there a summary that you read?

Ms. Strizzi: We have a copy of Bill 51.

Mr. Jackson: I am a legislator, and I have difficulty reading Bill 51.

Ms. Strizzi: That is the problem. We understand certain parts of it, but Professor Smith was going on about the economic statistics and all that earlier. We are not familiar with that. We just react with how it is going to affect us.

There is one family I am aware of, a single-income family. They are looking at a potential increase of \$100 a month; that is, \$1,200 a year to a family that has a net income of \$15,000. That is something that hits home. That is what we are reacting to. We cannot give you a statistical or economic argument. We can just say, "This is what we understand, and we do not like what we understand."

Mr. Jackson: The minister has indicated to this committee that we should not adjust or amend the bill, as it now is, before you and before us. Do you concur with the direction the minister is giving this legislative committee?

Ms. Strizzi: No. I think our brief has indicated that there are parts of the legislation we are very concerned about and do not agree with.

Mr. Jackson: Would you like us to amend the bill in accordance with the suggestions in your brief?

Ms. Strizzi: Yes.

20:40

The Vice-Chairman: A few more members of the committee would like to ask questions. Before I go to Mr. Davis, I would like to refer to Mr. Church, who said he would like to make a clarification of some of the remarks you made.

Mr. Church: It is on the same point we raised earlier. I can reassure the people who are concerned about one aspect of the rent increases. From reading your briefs, if the facts are as presented, there is no way those buildings would qualify for the chronically depressed rent component. This is just to reassure you that this is one component under the amendments that are being introduced. Any building that has been sold since 1982 will not qualify, and any building where a profit of 10 per cent is being made will not qualify. According to your brief, one or other of those conditions exists in all the buildings.

Mr. Billings: Is it either-or?

Mr. Church: Both of those circumstances must exist and the rents must be 20 per cent below average. Although the rents look as though they might be 20 per cent below average, clearly one of the buildings was making a profit by the assertion here and one of the buildings has been sold recently. Although we cannot be absolutely definitive, it looks as if none of the buildings mentioned here would qualify as chronically depressed rents, for whatever that is worth.

Ms. Strizzi: Excuse me. Are you looking at the offer to purchase? That goes with 1 Hill Heights.

Mr. Church: No. I was looking at the reference in the Park Lawn presentation that the building had been recently sold and in the other instance at the assertion that the landlord was making a healthy profit. If both those statements are true, neither of those buildings would qualify for the chronically depressed rent component. That may provide some measure of reassurance to your members.

Ms. Strizzi: There are 70 buildings in our area. The point we would like to put across is that we would not put it past our landlord and a couple of other landlords in the area to mislead people and say, "You have to pay this under the new legislation." We know of instances where people are paying too much for rent legally and are intimidated into paying it because they feel they cannot get an apartment anywhere else.

Mr. Billings: This is one thing we are greatly concerned about. There is very little in the media about this rent review act or the rights that tenants have. Even if the act were passed the way it is, the government should have the responsibility at least to inform the tenants in an understandable language of their rights and of the obligations they have to their landlords. That is in Bill 51, which you say it takes a lawyer to figure out.

The Vice-Chairman: That is a good point. I believe there is going to be quite an extensive education program on whatever legislation comes out of here for both landlords and tenants so that people know where they stand in regard to the proposed legislation.

Mr. Billings: The media coverage so far of what has been happening has been nil. This is based on what we can interpret from our books and Bill



51. We have not had objective or nonobjective coverage from the media, other than one I have seen, which is the only coverage of this I have seen.

Mr. Pierce: Perhaps Mr. Church can tell us whether the education program is going to take place before or after the passage of the bill.

Mr. Church: There are two different programs. Right now the Rent Review Advisory Committee and the government stand ready to meet with any group and explain what has been proposed. After the final bill is decided on and passed, there will be a substantial education program about what has been passed and how to behave under it, but we are available now.

Mr. Billings: Where will this be available?

Mr. Church: Talk to me as soon as you are finished and we will set something up.

Mr. Billings: Thank you.

Mr. Davis: I have a couple of questions. First, I would like to pick up on the remarks with respect to the media. It is interesting to note that when we did Bill 30 and Bill 94 the media were extremely present. Dealing with one of the most controversial and important pieces of legislation, one that faces at least half the population in this province and deals with housing, renting and so on, the media do not as yet seem to have developed the interest they have in those other areas.

It is a point well taken, especially when you try to read the bill. I had difficulty understanding how not only a tenant would understand it but also a landlord, let alone the legislators, would understand it. Perhaps we should hire a Philadelphia lawyer to walk us through it, although Mr. Church has done an extremely capable job.

I have three quick questions, if I could ask them; they are not in any specific order. I would like to come back to the fact that Bill 51 is a compromise in the sense that a compromise is not always what we want but a give-and-take situation.

You have people representing the tenants of this province. They made a compromise, as you said, that you believed was to the best of their ability. Would you be prepared to support Bill 51 as it now exists--understanding, as the minister has pointed out, that the balance is so delicate that both groups gain something but not necessarily all they gain? Alternatively, would you be prepared to tell this committee that you want dramatic changes which alter that balance and may in effect change the whole concept of Bill 51?

Mr. Billings: I guess the easiest way to answer this would be to say that we had nine tenants and nine landlords on the committee. The actual ratio would be much different from one to one. If the tenants were dealing in the same numbers as landlords, if each were treated respectively, this act might have been different.

Mr. Davis: What I hear you saying is that, as the representative of a tenants' group, you want to see changes to Bill 51, even though it may mean that the government pulls Bill 51.

Mr. Billings: They may pull Bill 51. I feel legislation is required, but we need proper legislation.

Mr. Davis: I want to go to two other questions.

One thing disturbs me in the sense of fairness, justice and compassion. This afternoon, at the end of the session, we heard that a number of landlords have perhaps increased rents illegally. I cannot get a handle on what that dimension is, but with the implementation of Bill 51 as it now stands, a significant number of those landlords will lose their apartment buildings; in other words, they will declare themselves insolvent and lose them.

I am not sure that is a solution to some of the problems we face--and let me finish now, because I want to give you an alternative. I am not sure that any legislation should penalize people because of the way they have dealt with others in the past. The government and opposition parties at that time refused to bring about any kinds of policing mechanisms.

I wonder how you, as tenants, would feel if an alternative were offered. My understanding is that it is a significant number of small landlords; I am not talking about the Cadillac Fairview people but about small landlords who invested a number of years ago and faced rent control in 1975. Let us say the landlord comes up to you and says: "Listen, Ron, hydro has increased 30 per cent this year; taxes are up 30 per cent. These are the kinds of factors I am facing. I figure I can cover it for an eight per cent increase in your rent." If you like the building and say, "Sure, go ahead," that is illegal rent.

How would you feel, as a tenant, if an option were put in this bill which simply said that those individuals found to be in contravention under the old rent review will have a monetary penalty placed against them that somehow is equivalent on some kind of percentage basis to the overcharge and therefore for a year or whatever period of time they cannot have any rent increases, rather than driving those people into bankruptcy and placing you, as a tenant, in a position where somebody else buys your building and then, as I understand Bill 51, is able to ask for certain kinds of increases because he bought the building?

Which would you prefer, driving the person in or some other kind of penalty?

Mr. Billings: This is very difficult to answer, but how do I explain it to the tenants who have paid the illegal rents? This is the other part of the same problem. This is their money, which they have paid illegally. If it is not fair for the tenants, is it fairer for the landlords than it is for the tenants?

20:50

Ms. Strizzi: Excuse me. Your thing was really convoluted there. I was trying to follow it. This is assuming that we agree with your position that somebody buying the building is entitled to that hardship or sale-of-building increase.

Mr. Davis: Bill 51 says he is.

Ms. Strizzi: We do not agree with that. That is something we feel very strongly about.

Mr. Davis: I have made an assumption that Bill 51 is going to pass.

Ms. Strizzi: The thing is, as I said earlier, that we are speaking here on the basis of our experience, and when you say "small landlords," do

you mean a person who owns one building? My father is a small landlord, and certainly he is in no way comparable to the landlord of our building down here. Our landlord is a small landlord, but he owns how many buildings?

Mr. Billings: He has at least 10 that we know of.

Ms. Strizzi: That is a small landlord. We are not talking about Cadillac Fairview here.

Mr. Davis: What I hear you saying--

Ms. Strizzi: Hold on. When you are talking about this hardship and all that, our building is in pretty run-down condition compared to some others.

Mr. Davis: I know your building is.

Ms. Strizzi: When we went for rent review a couple of years ago, he claimed hardship and all this sort of thing and wanted a 67 per cent increase or something like that, and he really moved everything around. What he was doing was taking that money and investing it in construction down in the United States, in Florida, Arizona and Texas. I find your argument very difficult to follow in terms of our experience.

Mr. Davis: I hear you saying, as a representative of a tenant organization, that you are prepared to place an individual who owns your building into receivership so that your building will now come up on the market for resale.

Ms. Strizzi: You would have to give me an example. I have difficulty believing that an individual would--

Mr. Davis: I had difficulty believing it until the ministry informed me in a discussion today that literally hundreds of landlords could face that problem.

I have to make a decision on Bill 51. I hear you telling me there are some decisions you would like changed, and I understand that. I do not have any problems with that. I hear the ministry telling me today--and the minister has not answered the question yet, but he will tomorrow. Do we propose Bill 51 as it now is and drive those landlords into receivership, which then places your building on the market? As I understand Bill 51, and I stand to be corrected, if somebody buys it, he can then ask for rent increases. Or do we say, "Okay, let us find another process whereby a person who has broken the law"--it may be technically or it may be that he did it deliberately--"is penalized monetarily, but he retains the building and then falls into the practices now legislated under Bill 51"?

It is important that we hear what the tenants have to say about that, because that is a decision this committee will have to deal with when we deal with Bill 51. I am asking from a moral point of view; that is what I am asking you for. I am asking for your advice. You may not be able to answer it, and I am prepared to let you go away and think about it. You could drop me a line and say: "As a tenant, yes, I am prepared to say to the landlord, 'You gouged me, and to pay for that you lose your building.'" You may have a better alternative, but the only alternative I can think of is to say: "Okay, you have done it. There is a penalty. It is a monetary penalty in that you have to pay a fine, and I am prepared to put it into"--you made a recommendation here--"some kind of housing program. That is where I will put it. No rent increase for a year or two, but you retain the building."



I want to tell you there is a large number, and I am going to ask the ministry tomorrow to try to ascertain for me the number of landlords who would be in that difficulty.

Ms. Strizzi: Could you also ascertain for us how many people would be put on the street if--

Mr. Davis: I will ask. That is a fair question to ask.

Ms. Strizzi: I know in our building there will be a lot of people who cannot even afford what we considerable affordable housing now.

Mr. Davis: I am going to come to that question.

Mr. Billings: I have a comment on the same line. With the sales of the building, the profit that has been taken off the building in the past years, if the landlord just purchased a building and he paid an exorbitant price for it, would you take that into account, too, when you are giving us the information?

Mr. Davis: Yes, I would. It is important. I found that out only today. I am trying to be ethical and just with it. It is immoral to drive--

Interjection.

Mr. Davis: I do not care what I am. It is immoral to drive people into bankruptcy.

Mr. Reville: Mr. Davis, do you think it is immoral for people to take stuff that does not belong to them?

Mr. Davis: Let me tell you about that, Mr. Reville. Let me tell you about a Premier who stands up and says to the public of this province that it is a technicality when he breaks guidelines. If a landlord is trying to break a guideline, I am not protecting him. My concern is to drive him out of business and to put that building up for resale. As I understand Bill 51, it means more increases for tenants.

Mr. Billings: We have one example coming up later this evening that will probably demonstrate how this apartment building got into the shape where two per cent is going to make the difference of bankruptcy.

Mr. Davis: I want to come to that.

Mr. Billings: This will be coming up later this evening. We have documented proof and it is before you at this point. (Inaudible) but I cannot see why the tenants can be held responsible for business investments that are bad or why we should bail out people who break the law and make mistakes. It is not--

Interjections.

Mr. Davis: What happens to me if I am a landlord who asks under the present system for a rent review and an increase in rent, if you are one of my renters, and while the debate is going on--because I understand it can take six months or more before the decision is made--you leave before you have to pay the increase. Should I have the right to come after you and claim that increase?

Mr. Billings: Assume I have been in the same apartment building for eight years. Should I be responsible for the other--

Mr. Davis: That is not the question I asked.

Mr. Billings: You asked me whether you should be able to come and collect rent from me on that increase if I left during that time.

Mr. Davis: That is right.

Mr. Billings: If the landlord sells the building during that time and applies for an increase, I am still the resident of that building.

Mr. Davis: That is not the question I asked. I asked whether, if I apply for rent review, you are my tenant at that time and you move to a building that is more expensive or less expensive--it does not matter which--but the rent review committee takes six months to process it and says to me I can increase my rent by eight per cent, you owe me for the six months, that period of time you were there. You were in that building at that time when you should have paid. Do I have the right to come after you? I am just asking you--

Mr. Chairman: I am going to have to rule that question out of order.

Mr. Davis: I bet you are.

Mr. Chairman: I am and I will tell you why. In one case someone has broken the existing law, and in the other case he has not. That is an unfair question to put to the witness.

Mr. Davis: Okay. My final question is on equalization, as I understand it. I am going to suggest that you are living in the building you are in and I will use some figures that were given to us by the ministry. We will assume these are rents for a two-bedroom apartment. Your current monthly rent is \$500. I live in the same building and my rent is \$545 for the very same kind of apartment. The landlord--although a tenant can do it--applies for equalization adjustment, or, because of rent review, I find you are paying only \$500 and I am paying \$545 and I go and ask for equalization adjustment.

Using the formula under Bill 51, the landlord is allowed to claim a 6.6 per cent increase on the units, and he decides he is going to balance everybody and equalize it. He is going to move your rent to \$556 and my rent to \$556. That means I face an increase of two per cent and you face an increase of 11.2 per cent. How do you feel about that?

Mr. Billings: We have already explained this in our brief.

Ms. Strizzi: Actually, one of our other representatives will give you a very good example of that.

Mr. Davis: So you are against it.

Mr. Billings: Yes.

Ms. Strizzi: Again, we are dealing from our experience, and with that \$545 rent, the odds are very good that the place has a history of illegal rents. I do not see why I should have to pay for--

I want to go back to before, when you were using your little example. I understand that the law tries to be as equitable as possible, but I wonder how many landlords are driven to bankruptcy or have to go back and reclaim rent in comparison with how many tenants who do not have that ability to reclaim rent they were supposed to get back. I think the balance is very much in favour of the landlords, not the tenants, so I do not think that was a fair question on that ground, either.

Mr. Davis: I cannot answer your question, but I have been told it is in the hundreds.

Ms. Strizzi: And how many tenants? We are talking about 6,000 tenants in our area. If your landlords are in the hundreds, I bet there are at least 100 times that for tenants.

21:00

Mr. Davis: I will ask you one other question to clarify a point. How would you feel if I were a tenant in the same building as you and my rent--

Mr. Reville: They would feel bad.

Ms. Strizzi: I might want to move out.

Mr. Davis: My rent is \$535, your rent is \$500 and I apply for equalization adjustment.

Ms. Strizzi: Do you mean you as a landlord?

Mr. Davis: No.

Ms. Strizzi: As a tenant?

Mr. Davis: As I understand Bill 51, I can do that.

Ms. Strizzi: You would get \$500, as I would?

Mr. Davis: I would ask for an equalization, which makes it \$556. How would you feel as my next door neighbour. I am paying the higher rent.

Ms. Strizzi: I am presenting the impression that it would be to the landlord's advantage to ask for a higher rent, not to the tenant's.

Mr. Davis: I have the right to ask.

Ms. Strizzi: You might have the right, but I doubt very much whether you would go and do it. I think this is a rhetorical--

Mr. Jackson: An explanation is in order. Under the equalization recommendations in the bill, a landlord does not get any additional net revenues. However, the bill provides a mechanism where there are two tenants with the same type of apartment, the same amenities and the same size. If one tenant is paying \$400 and the other is paying \$350, the act not only provides for an equalization but also says that, for the tenant paying the higher rent, the process can instigate a chain reaction that will cause your rent, if we go back to the analogy Mr. Davis is trying to convey, to go up by 12 per cent and Mr. Davis's rent to go up by only four per cent because of equalization. This might be spread over two or three years until such time as your rents were equal.



Ms. E. J. Smith: The landlord does not benefit.

Mr. Jackson: The landlord does not benefit, but one tenant benefits because he gets a lower net increase in rent over a two- or three-year period, but the other tenant will pay considerably more in rent.

Ms. Strizzi: What advantage would you get? You would get only two per cent whereas I would get 12 per cent. It would be to your advantage to do that.

Mr. Jackson: That is right.

Ms. Strizzi: We can give you an example. A lot of these questions will come up again later on. If someone is willingly paying \$500 a month--I think that was the amount that was quoted to me--I as a tenant in that building would be very upset if that person went in for equalization. If this is a legitimate tenant, I doubt very much that somebody would do something such as that in our building.

Mr. Davis: That answers my question.

Mr. Chairman: Are you finished, Mr. Davis?

Mr. Davis: Now we have tenants against tenants.

Mr. Chairman: We should call this presentation to a halt, because we have two more presentations to hear. It is already nine o'clock. I did not hear all your presentation, I am sorry, but you obviously provoked some interesting discussion, and we thank you for your presentation.

The next presentation is from the Stephen Drive tenants, with Glen Thrasher, and the 3 Heatherdale Road tenants, with Mrs. Jackson. Is this a joint presentation?

Mrs. Jackson: No.

Mr. Chairman: The two are separate, but you are doing it together. I am sorry for the delay, but it cannot be avoided if we are going to have a full discussion of the presentations.

#### TENANTS OF 167, 173 AND 177 STEPHEN DRIVE, ETOBICOKE

Mr. Thrasher: My name is Glen Thrasher. I am a member of the Stonegate Community Association. I am here tonight on behalf of the residents of 167, 173 and 177 Stephen Drive, buildings consisting of approximately 100 apartments all situated within the Stonegate community. We have discussed the proposals of Bill 51 and are very disturbed by some of them and by the consequences they will have for the people of our building and area.

The one we are particularly offended by is the chronically depressed rents. We feel this part of the bill is immoral because it would create real hardships for people who are already overextended paying existing guideline increases.

I have been a resident of 167 Stephen Drive for 21 years and have paid yearly legal rent increases. I feel I will be penalized for illegal rents that are being charged in our building and area.

There are also many tenants on fixed incomes and many dependent on one family income who will suffer greatly from this increase, if it is allowed. For example, a rent increase allowed on the basis of chronically depressed rents would result in a \$100-a-month increase for one of the families in our building. For a family of four with an annual net income of \$16,000, \$1,200 is a significant loss and a reduction in an already low standard of living.

In regard to rent equalization in our building, my rent is possibly subject to a nine per cent increase and that of my neighbours to a 10 per cent increase. I have lived in this building for 21 years. Why should I have to pay increases to meet the possibly illegal rates?

On maintenance and repair, when a person buys a car, the warranty covers it for one year. After that it is up to the owner for its upkeep. The same thing applies to a home owner who rents his house. It is up to him to do repairs and maintenance. If I rent a car, I pay the rental fee and mileage. I am not expected to pay an additional fee for wear and tear on the vehicle. How is it that the landlord can pass on to his tenant maintenance and repair costs when this should be considered with the rent I pay?

On capital expenditures, these have already been included in our rents and have been deducted from taxes as depreciation. They should therefore not be charged to us twice.

We are also concerned about provisions in the new legislation that will allow landlords to pass increased mortgage costs to tenants. We agree that landlords are entitled to a profit, but higher mortgage costs due to purchase prices should not be the responsibility or the burden of the tenant, since the tenant gains nothing from the increased market value of the building.

In closing, if this document is passed as it is in its entirety, it will result in extreme hardship for tens of thousands of people in Ontario, people who are already struggling to maintain their dignity in their present standard of living. On this basis, I feel that these portions of this document should be amended or deleted to make this legislation more humane and more equitable for all.

Mr. Chairman: Mr. Thrasher, just before we go on, you referred in about the third paragraph of your presentation to being penalized for illegal rents that are being charged in your building and your area. It is my understanding that is not the case, but I wonder whether Mr. Church can clarify that.

Mr. Church: Yes, you are quite right, Mr. Chairman. A comparison for chronically depressed rents requires that three conditions exist. The first is that the rents be 20 per cent below the average of legal rents in the area.

Mr. Thrasher: Excuse me. What is the legal average rent for the area?

Mr. Church: There is a method for determining whether a rent that a landlord is using as a comparison is legal. There is also a method to be developed to discover the average for legal rents in the area. That is one control. The illegal rents will not be used as a measure.

The second control is that the landlord must not be earning a rate of return on his equity of 10 per cent. That is his initial invested equity. It is our view that very few buildings owned by professional landlords who are maintaining a building on an ongoing basis are in that situation. I am not saying yours are or are not, but they certainly will not be in the tens of thousands.

I think you mentioned the third qualification. If the building has been sold at all recently, it will not qualify. It is certainly our intention that illegal rents will never justify relief from chronically depressed rents as a comparison.

Mr. Thrasher: I was of the understanding from the document I heard discussed and read in the committee meeting that these landlords were going to be forgiven for illegal charges of rents and would be able to pass them on as is to the tenants.

Mr. Church: No, sir. I believe that is the question Mr. Davis was raising with the previous people. If an illegal rent is discovered, it will be rolled back. Once rolled back, there are some circumstances in which the rebates, instead of being for the full six years for which they are now eligible, will happen for only two years. That is one change. The second change is that if the landlord is then earning a financial loss, in the future he can get back to a break-even position, but he will be rolled back to the level that would have been legal had he used the process.

21:10

Ms. E. J. Smith: We see different examples here of situations that come about. I go back to a presentation we had yesterday. For example, a small apartment building--and many apartment buildings are small--is owned by a working man who has put his savings into it and, at this point, the building is occupied by, say, six doctors or people of equivalent income who are all earning good, solid incomes. In the meantime, the owner has his life's savings in it and has a problem breaking even. In that case of a chronically depressed building--and those persons are well able to pay a fair rent--would you think it would be all right to allow the rents to come up gradually by two per cent a year?

Mr. Thrasher: This is a question that is more like a catch basin. I can put myself into an entrapment here. I do not know of anybody in that situation.

Ms. E. J. Smith: We had someone here yesterday who claimed to be in that situation. They said that the condition of the tenants had changed, that they were students who had graduated--one was a doctor--and were doing well but the rents were so low that they did not want to leave. Therefore, the rents were not relieving someone who was in financial need, but rather the attitude was, "Why should I leave? Since the rent is so good, I will just stay on, thank you," rather than moving on and someone else, who may have a lower income, having the place.

The bill is trying to address the units and, in some cases, the problems that are brought to us are people's incomes. They have had to pay too much of their income in rent. What we, as legislators, will have to look at is whether we should be looking more at those people who have the problem than at the unit itself in order to determine what is there. Can you see that this might be reasonable?

Mr. Thrasher: I hear you say that and I understand that--

Ms. E. J. Smith: In your case, you feel they all need it.

Mr. Thrasher: --but I do not know of anybody occupying my building who is in a professional category. Most of the people I represent here tonight



are single-income people. They are widows, widowers and people on fixed incomes who have been victims of circumstance during their lifetime and they are facing these problems today. I can tell you quite sincerely tonight that I am not against the landlords. I am not against anybody making a profit for an honest investment.

We tenants are scared to death of these chronic and equalization payments because, as has been stated by Mr. Billings tonight to this minister, the news media have not publicized everything about Bill 51 in the papers so that the masses out there know what is going on. They are just getting it drifting down from a little bit that is dropped here and there and they really do not know anything in clarity about this thing. If it was publicized, as was Bill 94 for the doctors, maybe we would know more in its entirety and what to really expect from this bill rather than being scared out of our wits.

I can say quite honestly I am not against free enterprise. I believe in free enterprise. But I earn only X dollars a year and I am a frugal, prudent person. I do not spend my money foolishly and I can honestly say that when I pay my debts I do not have an awful lot left to save for my old age or for that golden day when I get to the rocking chair.

I do not have anybody trying to legislate my employer to give me an increase in pay that will cope with all the increases I am faced with.

Ms. E. J. Smith: I fully understand that. We are hearing mostly from tenants and tenants' associations who represent people with income problems. Therefore, I fully understand and sympathize with what you are saying. On the other hand, just looking at it from the point of view of landlords in a much more general sense, Mr. Grenier, one of the landlords on the Rent Review Advisory Committee, made a comment to me when I said something about Manulife, that, indeed, Manulife might be considered chronically depressed--not chronically depressed in that case--because, in effect, if it were built long enough ago, it might be out of kilter with places around it and what would logically be paid. Yet I think you would agree the taxpayer should not be subsidizing most of the people in Manulife. A huge number of parliamentarians live there. I am sure you do not think we should be subsidized.

Mr. Thrasher: No, I guess not.

Ms. E. J. Smith: We are all grappling with how to separate the problems that relate just to buildings from the problems that relate to people who have income problems, who cannot be too adversely affected beyond what they can cope with. It is a problem and we will look at it.

You should understand we are grateful to hear from you because, by and large, you represent the people with that problem. Those are the people who are coming forward. A lot of the people who have jobs, businesses and so on and who can afford more rent are not coming forward because they cannot make such a strong case.

Mr. Thrasher: I believe if the minister were to have the media break it down and put something in the press that we can read, chew on and try to understand--

Ms. E. J. Smith: There is a small guide out.

Mr. Thrasher: The minister said tonight he can barely understand this document.

Ms. E. J. Smith: I agree it is too complicated and there is too much detail, but there is a smaller guide out.

Mr. Thrasher: I have listened to a breakdown of the brief and it is really scary.

Ms. E. J. Smith: As a matter of interest, one of the things in the last brief that you should understand is the clause called "costs no longer borne." It is put in here for the sake of the tenants and for justice. You will not have to keep paying for repairs or capital expenses after they have been paid for. The example of paying for the paint after the paint is already paper is one of the things that is corrected in the bill.

Mr. Thrasher: My landlord owns the buildings from the ground up. He built them 34 years ago and still has them. He has seven buildings: six of them are in the Stonegate area and one is in the Humbertown area. I do not think my landlord is suffering in the profits he is making because he has been building condominiums in Florida for the past 10 years. He is one of the ones who is making a profit on the legal rent increases that I have been paying over the years.

Mr. E. J. Smith: As Mr. Church has said, he will not enter into this as long as he is in that category. You have nothing to worry about under that part of the bill.

Mr.-Chairman: We will move on to Mrs. Jackson's presentation.

#### 1 AND 3 HEATHERDALE ROAD TENANTS ASSOCIATION

Mrs. Jackson: My name is Martha Jackson. I attended one Stonegate tenants' meeting back in the spring but did not know I was coming here until Monday night, so I am something of a stand-in. That was the first time I had ever been to a rent review meeting. I suspect my presentation will appear somewhat naïve, but this is a tenant's point of view and it is sincere.

I have had an apartment at 3 Heatherdale Road since 1967. Numbers 1 and 3 Heatherdale Road, in southeastern Etobicoke, are two adjoining apartment buildings containing 35 rental units each, for a total of 70 units. Our rent covers no frills, but basics only. We get living space, heat, locker space, hot and cold water and access to laundry facilities. Tenants pay for their own electricity, cable, air-conditioning, parking, etc.

We are about one mile from the nearest subway and streetcar lines. We have no security system. For example, after the doors are locked at night, we have to wait in the lobby for our guests. Children are allowed. We carry our garbage to outdoor containers; there is no glamour. In short, this is not the high life of the high-rise. Our rent does not provide squash courts, swimming pools or fitness clubs.

We are families and singles, representative of many who need modest and affordable accommodation in the big city. Most of us thought apartment life would be temporary and that we would one day be home owners. For various reasons, and in some cases more than 20 years later, we realized that home will probably always mean an apartment. Even if we move from Heatherdale, it will likely be to similar accommodation. We, therefore, have a serious interest in rental accommodation that offers security, respectability and fairness to both landlords and tenants.

21:20

On the topic of rent review, in fairness to landlords, we realize that costs usually go up and not down and that landlords have expenses only vaguely known to us. A landlord should make a profit on rental property unless it is a tax write-off or something such as that. The government-imposed limit of four per cent did give tenants some idea of what to expect from year to year. However, the pattern of landlords asking for an increase above the four per cent can become an annual ritual that leaves average tenants confused, uneasy and demoralized.

We know we can examine cost figures at the time of application, but few of us can read someone else's balance sheets perceptively. How can we know whether expenses are accurate and legally receipted? For example, in May 1986, our landlord requested a 12.5 per cent increase. That is really what got me up to that meeting. We look around our building and we cannot see where that extra 8.5 per cent has gone. Reasons given for the proposed increase are vague, and I quote from the form:

"To recover increasing operating costs, certain capital expenditures, both completed and proposed, and to request recovery of the loss due to the rearranged financing previously calculated but not yet awarded."

Must we pay in advance for so many unknowns? The fatiguing ritual continues something like this: We make out a cheque for the new proposed amount as soon as the date comes due. Then we are advised to add four per cent only and set the rest of the money aside. We write out a new cheque. We wait. Then either we owe the landlord or the landlord owes us after rent review. It is confusing.

The process appears to be democratic, but it is in fact time-consuming and frustrating for all concerned. This is probably naïve, but we wonder, rightly or wrongly, whether the landlord tries for an unrealistically high increase, hoping that if it is reduced, it will look better and he will still get more than the four per cent. Thus, we view with suspicion the proposed formulas for calculating costs. Can we count on the Rent Review Hearings Board to treat with caution any unusually high request?

For example, we know that house buyers too must deal with prices that are often so unrealistic as to be out of sight, but they at least end up with an investment that has a resale value. Tenants have no comparable equity, even after many years.

We also recommend, and this is almost a sideline, that all communications to tenants be clear-cut and in plain English. Forms must be understood by people with varying degrees of education, literacy and knowledge of the English language. I consider myself reasonably literate, but I was tired after reading this and trying to write this. It is just so hard for average people. Probably many tenants never speak up out of fear of making waves or just incomprehension over this blizzard of paper.

On the subject of maintenance, the proposed Residential Rental Standards Board should protect tenants and make landlords and tenants more responsible. I think if tenants were called upon to be more responsible, buildings would be in better order, the common areas in particular. The landlord's property would appreciate in value rather than depreciate from lack of care. A new landlord would not acquire a building that needs a tremendous amount of repairs, the cost of which might cause an unexpected increase in rent for tenants.



Tenants should have some say in the priorities of repairs and maintenance. For example, which is more important? Curtains for the lobby, which I hear we are getting in our building--literally window-dressing--or better fitting windows and screens in our own units. We are fortunate. At Heatherdale, our superintendents work hard to keep our common areas clean and our grounds attractive, but some guidelines on basic repairs would be helpful.

For example, in all of this, I have forgotten who is responsible for painting. It used to be when you moved into an apartment that it was always painted. Now it never seems to be. How often is it supposed to be painted? We lose track of things here. These basics get lost in what comes across to me as a somewhat adversarial system. Maybe I am wrong. Remember, apartments are the landlord's property, but they are the tenants' homes.

In my opinion, the rent registry could become a very complicated administrative setup. Basically, however, we do support it as a way of protecting tenants from being overcharged. We recommend that landlords be required to pay back illegal rents.

Ms. E.-J. Smith: Do not tell Mr. Davis.

Mr. Chairman: Do not tease the bears.

Mrs. Jackson: I am speaking for myself and nobody else. What really comes to my mind are the long-term effects of all this.

I know the other tenants will not agree with me on this. My sense of justice says that landlords should be made to pay back illegal rents, but my sense of reality wants to know who is going to handle that huge administrative task. Who is going to track down all these people?

That is my own opinion. When I was thinking about it very early this morning, yes, we believe that, but I will tell you this as an aside: I was briefly a very small-time landlady and I lost hand over fist. I was faced with the chance of going after my absconding tenants and I could not afford to do it.

We have to be realistic. We should not think of the immediate gratification of getting a cheque for so many dollars because we lost out. I just think it could get awfully complicated.

If there is a reasonable period--say, going back two or three years, or whatever--it might work. However, I am speaking strictly for myself there. I am politically naïve and economically worse. I just see more and more paperwork coming out of it.

The proposed equalization of rents appears to be hardest on stable tenants, those who have remained in the building for many years and paid less because of rent review. I would like some clarification on this. Surely long-term tenants are an asset and are less costly to a landlord. Why penalize them?

We have one large, extended family in our building. Many of the people are related. We also have our share of comers and goers, but I do not believe those of us who have stuck it out and hung in there while things got a little bit better, perhaps year by year, should now be asked to pay for that.

The section on chronically depressed rents requires clarification. I have a bit of it tonight, but I am still going to have to go home and mull

this one over. It appears to mean that rents for comparable units within a given area will eventually be equalized. What if the higher rents were either unrealistic in the first place or a result of illegal rent raises in the past?

As I say, that has been better explained to me. We remind the government, however, that it is in everyone's best interests to have modest accommodation at moderate rates. We live where we live because that is what we can afford.

To sum up, we know that responsible tenants are expected to follow changes in legislation that affect them, but many of us find the relevant acts or bills heavy reading for the average tenant. We note that Bill 51 had second reading on July 7, 1986, and that the Legislature will soon reconvene after its summer recess. We ask that the submissions of tenants' associations be weighed carefully before the bill is considered for third reading.

As it stands or as amended--I was not thinking about withdrawing it--Bill 51 is bound to have long-term effects on the day-to-day lives of many ordinary people. Unfortunately, even though our daily lives are affected, it is often a struggle to get the often disparate groups of tenants in any given building motivated to act because of the commitment of time and energy required.

We would welcome any help from the committee in clarifying and simplifying explanations for our tenants. For example, I would be willing to try to get the tenants in my building to answer very clear questionnaires on the more contentious issues of Bill 51, if the committee sees fit.

21:30

Mr. Chairman: Thank you. Before we move to the questions from committee members, perhaps it would be helpful if I explain to you where we are going from here.

We have public hearings almost until the Legislature reconvenes in the middle of October, at which point we will start into clause-by-clause debate of the bill. This means the members of the committee, whom you see here, debate every clause of this bill and vote on every clause if necessary. Amendments can be put on each clause. We already know there are going to be more than 100 amendments put; so it is going to be an agonizing process. There will be no quickie third reading on October 15. It is going to be a much more difficult process than that.

Mrs. Jackson: Thank you.

Mr. Chairman: You did mention you wanted a clarification of the equalization aspect of the bill. Do you still want that?

Mrs. Jackson: I think I picked up enough. I do not know how good my notes are, but I think I did pick up enough tonight.

Mr. Chairman: Finally, I do not know whether you have seen the document that explains Bill 51, put out by the ministry. Mr. Reville is holding it up. We could certainly make that document available to you. You might find it helpful.

Mrs. Jackson: Yes, I would like that. Thank you.

Mr. Reville: The chairman is being a bit helpful. It does not answer all your questions by any means, but it does put into plainer English some of this legal gobbledegook. You may still end up with a lot of questions at the end of that. If you do, call him.

Mr. Davis: I have just a quick question for Mr. Thrasher. You indicated, and I am sure there are a number of tenants in your position, that the increase in rents could place you in financial difficulties. It has been indicated to us by the minister and ministry officials that there could be substantial increases in certain apartment units; indeed, that would be the fact.

Would you support a process or policy that has some kind of rent subsidy for people who find themselves in that difficulty? I think of two groups of people: individuals who are already receiving some kind of rent subsidy, where the increases place them further in arrears, and people who have never in their lives received any type of government subsidy, but because of substantial rent increases, now find themselves in the position they cannot afford their rent any more. How do you respond to some kind of rent subsidy for individuals in those cases?

Mr. Thrasher: For people in those circumstances, yes, any type of assistance they get will naturally help them.

This is the same subject that comes up with the masses of people right now who are unemployed and on unemployment insurance. They do not want to take the lower-paid jobs. They cannot afford to work for those wages because they could not pay these increases in rent or live in any type of decent place. I would like to see those people take the lower-paid jobs, but instead of getting welfare, they should get some form of subsidization from unemployment insurance to go along with the low pay. That will get them back into the work force, and they may be able to go from there into some other better opportunity.

Mr. Pierce: Mr. Thrasher, what you are saying then is that there should be some form of shelter allowance provided for people who cannot afford the type of accommodation that they require to live in.

Mr. Thrasher: If they are going to live where they are living now, they are happy they are there and this thing becomes law, there has to be some form of help for them or they are going to be out on the street and into these hostels that are already overextended, as I read in the paper. If this goes through, I can assure you there are going to be thousands of people who will be in tent city very shortly.

Mr. Chairman: If there are no other questions, thank you very much, Mrs. Jackson and Mr. Thrasher. Your presentation was very articulate and well put together.

Mr. Thrasher: Thank you.

Mr. Chairman: There is one more presentation this evening, from the 1 Hill Heights Tenants Association, represented by Ms. Cavin and Mr. Humphreys.

What about the 34 Riverwood Parkway Tenants Association? Are all those people here?

Mr. Wrisberg: I am deferring it to another time. I am in no shape to make a presentation because of my health. I hope you will give me another opportunity.



Mr. Chairman: Perhaps we could have a word with you. We will try to do that.

We have before us Ms. Cavin and Mr. Humphreys.

1 HILL HEIGHTS TENANTS ASSOCIATION

Mr. Humphreys: We are representing the 1 Hill Heights Tenants Association. We also live in the Stonegate area, which represents about 6,000 people. We are here this evening to speak on behalf of the 29 tenants of our building. Many of these people are single or fixed-income families. We have some major concerns with the legislation proposed in Bill 51. These concern the sale of buildings, rent equalization and maintenance.

Concerning the sale of buildings, we believe owners should not be allowed to pass on purchase costs. As far as we are concerned, this is between the buyer of the building and whoever is financing it. It should have no impact on our rents.

Our building is a prime example of speculation and the hardship it creates for tenants. We have documentation here. I refer you to the three transfer deeds of land you have before you that will show three different resales of this building in a period of approximately eight months. In 1974, the market value of our building was about \$200,000. In the past year, the building was sold three times, first in August 1985, then in October 1985 and subsequently in May 1986, each time at a rather substantial profit.

If you look through all these three documents, you will see the purchase price increased by \$252,000, from \$635,000 to \$887,000. The most recent owner purchased this building with only \$255,000 as a down payment. This represents 28 per cent of the total sale price. There is 72 per cent left, and we as tenants do not believe we should have to bear the burden of financing what we consider to be rampant speculation.

We do not believe a 28 per cent down payment is sufficient grounds to prove that an owner is capable of either handling his mortgage payments or maintaining the building on an ongoing basis.

This present owner is seeking a 25 per cent rent increase. That will be in January 1987. The owner will turn to the tenants to finance the costs of the building, and the tenants receive absolutely nothing in return. The maintenance, particularly over the past three or four years, has deteriorated badly in our building. We have lost our residence superintendent while our rents continue to escalate. The owner has assumed existing mortgages. If you look through these documents, you will see how much they total. They come to \$631,000. Some of what we assume are these mortgages reflect inflated mortgage rates during the 1980-82 period, and these high interest payments are passed on to us as well.

We are very concerned about the section dealing with rent equalization. Needless to say, when a building has four landlords in two years, the tenants are vulnerable to illegal increases. Once the illegal rents are established, the tenants in the building who are paying legal rents can be victimized. In our building, this would net our landlord \$8,000 per year.

To give you a breakdown of that \$8,000 figure, it represents one tenant in our building, who is paying \$23 per month more than the legal rent should be. If you take that times the 29 units times 12 months, you end up with

\$8,004. As far as we are concerned, that is a substantial amount of money. That could continue to happen.

21:40

This tenant is quite happy to pay the money for fear that, if she makes a big noise about it, she is going to be out the door. She is somebody who has moved around a lot in other buildings and perhaps would find herself out the door once again. We feel the equalization process proposed in Bill 51 would definitely impact there if, in bringing this rent to somebody's attention, this person was pressured by the landlord.

In terms of maintenance, we look at the section dealing with repairs and maintenance. Having looked through the legislation, our tenants feel the owner is under no obligation to abide by any maintenance standards. Maintenance in our building has deteriorated in the past two years. It is our experience, particularly in Etobicoke, that property standards have been very ineffective. A lot of the concerns in our building are not even covered by property standards. The situation is hopeless. I say that in all sincerity, because it really is a problem. The standards have to be much more clearly defined, not just in Etobicoke but across this province, and they have to be enforceable.

In conclusion, we believe that affordable housing is a right and the concerns we have raised here show the need for action in that respect by this provincial government. We trust Bill 51 will be amended to reflect these concerns.

Mr. Reville: Thank you for making your presentation. One of the many problems with the bill before us is that it is not all here. The government has indicated there are 100 amendments or so. I understand some of the amendments are coming in the section on the Residential Rental Standards Board, which you speak of in your concluding paragraphs. The government has assured us it will add two levels of penalty in subsection 15(5), so that a landlord who does not comply with an order of the standards board will be prevented from getting any rent increase at all. I guess the theory behind that is it will be some incentive to maintain the building.

However, we have no information yet about what the standards are going to be, how inspection forces, which will be municipal inspection forces--and you have already had some experience with that--will enforce these standards and whether the municipality will have enough money to carry out a reasonable inspection. Your points are very well taken. I want to add that you are not the first group before us which has made the point that the cost of refinancing aspect should not be borne by the tenants.

Mr. Pierce: Mr. Humphreys, certainly, the documentation you have provided here tonight shows us that what we fear the worst can actually happen. I wonder whether Mr. Church can show us where in Bill 51 a transfer of properties for large profit could not take place.

Mr. Church: There can still be some. There are several essential differences under Bill 51 from the system that existed prior to 1982, which is where the principal problems have come from. Under Bill 51, the financing costs that will be passed through relate to losses generated as a result of the sale. They can be passed through at the rate of a maximum of five per cent per year.

If, in fact, the losses generated are as large as they were on the sales that you quoted from the past, the landlord would take such a substantial time

to recover his losses--not recover but to move himself to the position where he was no longer losing--that those sales would probably not be attractive to him. However, if the units are perceived to be underpriced or if they are highly unleveraged, highly unmortgaged, then there is still the possibility of some pass-through. I do not want to mislead you in that respect.

Mr. Humphreys: We have been told by our present owner, the new owner we have had since May, that if he does not get his 25 per cent increase, he will turn around and sell the building before January 1987.

Mr. Church: Unless there is some form of artificial increase in the value of the properties, that would not ultimately have much impact on rents because, as you say, there is already a substantial level of mortgaging on the building. The level of losses would not be--in fact it might even be decreased. You might be better off if it is sold, depending on how much is put down.

Mr. Humphreys: As you can see, there is not an awful lot put down in the majority of these sales. That is speculation.

Mr. Church: That is particularly true in the period prior to the anti-speculation clauses the House put in the act in 1982. You are quite right.

One point of clarification, if I may. There was one area on which, just as a point of fact, we can provide some reassurance to Mr. Humphreys, and that is in the equalization area. The way the bill is drafted, it is designed to ensure that not one cent goes to the landlord. It is essentially designed to allow an equalization within a building by only allowing the ones who are paying less to come up by exactly the same total amount of rents within the building as the other one comes down. They only allow the equalization in legal rent. If you have an illegal rent that will not have an impact. That \$8,000 which you fear just simply will not--

Mr. Humphreys: It definitely does not apply to illegal rents?

Mr. Church: It not only does not apply to illegal rents, but also even if that rent were legally \$23 a month higher than yours, what would happen is that that person with the \$23 a month higher rent would pay a smaller increase when the next rent increase went through than everyone else, but the total rent increase to the landlord would remain the same.

Mr. Pierce: You are all of a sudden putting yourself in a competition process with your neighbour if you request the equalization; so now everybody is mad at everybody instead of just the landlord.

Mr. Chairman: Is there anything else? Any other questions from members? If not, thank you very much for bringing your case to the committee.

That is the end of our deliberations for the day. We begin tomorrow afternoon at 1 o'clock when we will hear from Mr. Karl Mallette.

The committee adjourned at 9:47 p.m.





STANDING COMMITTEE ON RESOURCES DEVELOPMENT

RESIDENTIAL RENT REGULATION ACT

THURSDAY, AUGUST 28, 1986

Afternoon Sitting



CHAIRMAN: Laughren, F. (Nickel Belt NDP)  
VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)  
Bernier, L. (Kenora PC)  
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Reville, D. (Riverdale NDP)  
Smith, E. J. (London South L)  
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Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Davis, W. C. (Scarborough Centre PC) for Mr. Bernier  
Hart, C. E. (York East L) for Mr. Epp  
Jackson, C. (Burlington South PC) for Mr. Taylor  
Mitchell, R. C. (Carleton PC) for Mr. Pierce

Clerk: Decker, T.

Clerk pro tem: Arnott, D.

Staff:

Ward, B., Research Officer, Legislative Research Service

Witnesses:

From the Metropolitan Toronto Apartment Builders Association:  
Mallette, K. L., General Manager

Individual Presentation:

Slate, F.

From the Ministry of Housing:

Church, G., Assistant Deputy Minister, Corporate Resources and  
Building Industry Development  
Peters, F. H., Executive Director, Rent Review Division

From Goldlist Property Management:

Goldlist, G. D., President  
Griesdorf, G., Executive Vice-President and General Manager; Member,  
Rent Review Advisory Committee

Individual Presentation:

Kushko, P., Member, Grange Ryerson Tenant Association

From Robinwood Management Corp. Ltd.:

Herman, R. J., Property Manager; Member, Fair Rental Policy Organization  
of Ontario

Individual Presentations:

Milinkovic, Z. D., Member, Fair Rental Policy Organization of Ontario;  
Member, Multiple Dwelling Standards Association

Garten, I., Member, Fair Rental Policy Organization of Ontario

McDonald, D., Member, Grange Ryerson Tenant Association



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, August 28, 1986

The committee resumed at 1:16 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT  
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The committee will come to order. I apologize for the delay. So far, the fire alarm warning does not apply to us.

Our first presentation this afternoon is by Karl Mallette on behalf of the Metropolitan Toronto Apartment Builders Association. Welcome to the committee. We look forward to your presentation.

METROPOLITAN TORONTO APARTMENT BUILDERS ASSOCIATION

Mr. Mallette: The reading time is about 25 minutes. I will keep my eye on the watch and read faster if it is running slowly.

The report of the Royal Commission on Certain Sectors of the Building Industry, commissioned on March 28, 1973, and filed in December 1974, documents the violent activities in the apartment construction industry during the 1960s. The commissioner made 17 recommendations, of which 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, 15, 16 and 17 have not been legislated by the government.

Relative peace was established in September 1969 by a unique residential construction agreement negotiated by Harold Green, Eph Diamond, Alex Grossman, Herb Stricker and Phil Roth, five of the major apartment builders of the day representing the Metropolitan Toronto Apartment Builders Association. They negotiated with Alex Main and Clive Ballentine, representing the construction trades council. The 1969 residential agreement is the only one ever negotiated on the North American continent.

The apartment builders voluntarily became unionized. The trades council agreed to limit the jurisdiction of certain unions and to form residential locals to match the industry practices.

The industry proceeded to become the world's most productive, evidenced by the following annual apartment unit completions: 1971, 13,317; 1972, 21,569; 1973, 14,224; 1974, 19,097. Then we had temporary rent review legislation. In 1975 it dropped to 9,773 units completed; 1976, 9,516; 1977, 7,817; 1978, 9,335; 1979, 8,847; 1980, 8,210; 1981, 4,062; 1982, 4,753; 1983, 6,616; 1984, 5,338, and in 1985, 2,926. The figures include rentals and condominium units and dramatically show the effect of rent controls.

Appendix 1 to the presentation shows the annual office square footage completed relative to the apartment square footage completed. You should take notice of the fact that from 1971 through 1974 there was two to three times as much apartment construction as there was office construction. The introduction of rent control in 1975 cost the economy of Ontario a lot of construction and supplier jobs.

Appendix 2 is a Workers' Compensation Board chart showing general construction rate 854 for the years 1975 through 1987. Please note that the low-rise construction was taken out and placed in rate 864 between 1979 and 1980, but all the liabilities of the house builders were left to be borne by rate 854. Please note that the apartment construction rate 854 will increase by 22 per cent in 1987, dictating the cost of about \$2,000 per unit for WCB costs.

Contrasting to the drop off of man-years in apartment construction in appendix 2, appendix 3 is the WCB chart on house construction man-years documenting the growth since 1980 and projecting growth through 1987. Appendix 4, line 2, shows that the apartment construction rate 854 payroll base has shrunk dramatically. Appendix 5 shows the house construction payroll more than tripling in 10 years.

Every housing study since the first one conducted in Scarborough in 1964 has demonstrated that a mix of detached, semi-detached and multiple-family dwellings should be provided. The studies demonstrate that the infrastructure costs become more tolerable where higher densities are achieved. In the 1970s, when the oil crisis focused our attention on heating resources, we looked to common-wall, stacked dwellings to economize heating resources. Construction material resources are more efficiently utilized and less land is taken by common-wall, stacked dwellings. Fewer per capita water mains, sewers, roads, curbs and sidewalks are required for higher-density dwellings. Fewer policemen, firemen and ambulance drivers are required for higher-density dwellers. Public transit is more economical in serving higher-density dwellers.

Recent media reports indicate that areas such as Vaughan purport to want only detached houses. It is noteworthy that all the municipalities in Metropolitan Toronto had to provide the capitalization for their sewers up front, thereby front-end loading those costs into the mortgages on their dwellings, whereas Markham and Vaughan were provided the York interceptor trunk sewer courtesy of the provincial government.

We challenge members of the standing committee on resources development to reconsider rent review now that we have had 10 years' experience. The world's most productive apartment construction industry, which completed 21,569 units in 1972, has been reduced to 2,926 completions in 1985. Our organization is in contractual relations with the Labourers' Union, Local 183, which works on every apartment project in Ontario Labour Relations Board area 8, being the regions of Metropolitan Toronto, York, Peel, Durham and the county of Simcoe. We receive a monthly computer printout, and in June 1986 only 38 apartment projects were being constructed.

Deficits at the municipal, provincial and federal levels are threatening to force our economy into a recession. Some of us can remember that most municipalities in Ontario had to be assumed by the province in the last recession. The Deputy Minister of Municipal Affairs fired all the municipal staff in Scarborough and then offered them re-employment at half the salary.

By building only detached houses, are we gobbling up land resources, heating resources and construction resources faster than we should? Are the taxpayers of the future going to be able to afford the infrastructure we are putting in place to service only detached houses?

Through Canada Mortgage and Housing Corp., Ontario Housing Corp. and Cityhome, governments have attempted to provide public housing disguised in many forms. We will quote from three reports.

1. November 1983, CMHC, section 56.1, Nonprofit and Co-operative Housing Program Evaluation:

"To the end of 1982, \$255.9 million in subsidy. Within 10 years (1992) the annual subsidy budget is estimated to exceed \$1.3 billion.

"There is some evidence of overconsumption of housing: 15 per cent of self-contained units have more bedrooms than there are occupants.

"Thirty-three and one half per cent of 65,000 units built under the section 56.1 program paid more than 30 per cent of their declared household income." Therefore, 66 2/3 per cent did not.

"Building costs per square metre were found to be higher in section 56.1 housing than in the private sector.

"Monthly operating costs in nonprofit and co-operative housing averaged \$167 compared to \$120 in the private sector and \$200 in public housing.

"Forty-five per cent of section 56.1 projects did not achieve the objective of income integration."

2. I would like to quote from a report filed in November 1984. The title is Rental Housing in Canada Under Rent Control and Decontrol Scenarios 1985-1991, by Clayton Research Associates:

"The average gross rent for average-quality, newly completed rental accommodation across Canada in 1983 is estimated at \$439 per month. This is approximately 25 per cent below the estimated minimum rent required to encourage real estate corporations to build significant numbers of rental units and 40 per cent below the minimum rent required by individuals and other investor corporations.

"Most of the evidence presented appears to support the hypothesis that the rental market does behave as a market where it is permitted to do so. Rent decontrol usually results in rising rents which encourage new production, resulting in higher vacancies, which in turn moderate the rent increases."

3. The third report was filed in November 1984: City of Toronto Housing Review, by Comay Planning Consultants:

"Low-income tenants occupy one third of Cityhome housing stock." Therefore, two thirds are not occupied by low-income people living in Cityhome.

"Low-income units receive a subsidy of \$420 per unit (1982).

"At Asquith Place the first-year subsidy will amount to \$8,400 per unit.

"At Newbold Avenue the first-year subsidy will amount to \$5,300 per unit.

13:30

"The federal government now pays for about 70 per cent of the total grant support required to operate the city's housing portfolio, and the provincial government 30 per cent." It seems to me that adds up to 100.

"If municipal housing continues to be produced, it will require cost-sharing arrangements involving higher provincial contributions."



"It is increasingly difficult to secure a tenant mix which reflects normal neighbourhood and community housing patterns, as the program is intended to do."

We commend the overview for your reading. Unfortunately, we left it out when we delivered the presentation yesterday, but I have brought it in today. It was filed in December 1984. It is an overview statement on rent control by Mr. Sandusky, who was then the national president of the Housing and Urban Development Association of Canada.

My experience dates back to 1959, when limited-dividend Central Mortgage and Housing Corp. financing was made available at 4.5 per cent, purportedly to house families with children. I challenge you to visit any of the LDs and find many children. Since 1959 I served the Scarborough council for 16 years and served on its planning board for 14 years. I served on the Metropolitan council for eight years and on its planning board for seven years, when we had the responsibility for planning in Metropolitan Toronto, York, Durham and Peel. I served for 12 years on the Toronto Transit Commission, 10 years on the Metropolitan Toronto Housing Co. and eight years on the Metropolitan Toronto industrial commission.

I served for eight years as a member and chairman of the social services committee of Metro, during which time we reorganized 13 welfare administrations into one. In each of those eight years the Ontario Housing Corp. opened its books to us, because we were then responsible for 7.5 per cent of the operating loss. In the eighth year the president of Ontario Housing Corp. recommended to the government of the day to cease constructing apartments because of the mounting operating subsidies.

My experience in planning and budgeting for Scarborough, Metro and the TTC tells me that density economizes on (1) infrastructure costs, (2) construction material resources and (3) heating resources and provides a range of choice of dwelling forms.

In 1964 the Ontario Municipal Board chairman ordered Scarborough to cease building schools because our debt charges had reached 29 cents on the tax dollar. Obviously, we could not stop building schools, because the provincial law required schooling up to the age of 16. Our problem was that we had absorbed more LD apartments and more minimum-sized National Housing Act-financed housing than any municipality in Canada, resulting in a birth rate higher than those of India or China, and 50 per cent of our population was 16 years of age or less. We were the dormitory for the businesses in the city of Toronto, whose council had failed to annex sufficient adjacent land to keep home opportunities in ratio to the job opportunities in the city.

Part of our reaction to the order of the OMB chairman was to organize the first housing study in Canada to (1) forecast housing needs and (2) forecast the ability of Scarborough to bear the infrastructure costs, particularly the municipal share of education costs. The result was that we opted for a ratio of 55 per cent upscale, detached houses, 15 per cent multiple family and 35 per cent apartments on our official plan for phase 2 and phase 3.

With our assessment base of 68 per cent residential, we had to require each future detached house to be of a value that would produce sufficient assessment, and therefore taxes, to carry the costs flowing from that house and household calculated after provincial grants. Some called it planning by assessment, but the alternative was to default again to the province. Many of

the councillors of the day recalled that Scarborough had been in default up to 1946. We tightened our belts, we set our priorities and we told our constituents.

One of the major cuts we made was in recreation facilities. This was particularly critical because 50 per cent of our population was 16 years of age or less. Our constituents responded to the point where we had more voluntary recreation workers than any other municipality in Canada, proving that politicians can lay their cards on the table and the voters will react favourably.

In 1949, the National Housing Act was amended by the federal government to pump-prime the construction industry to create jobs to relieve the then very high rate of unemployment. An insurance fund was mandated, which required the payment of two per cent of the purchase price by the purchaser of a house. The insurance fund was established to persuade moneylenders to increase mortgage amounts from 60 per cent to 90 per cent. To sweeten the proposition, mortgage lenders were given the right to precollect municipal taxes for up to 24 months in advance and have the use of those funds until forced to pay the taxes.

In 1959, the penalty rate the province allowed the municipalities to charge was lower than the rate of interest the lender could get on investments, and lenders were deliberately late in paying the taxes of the mortgagees. That forced the municipalities to borrow from the bank in order to operate. We fixed that problem.

In 1949, we were a one-income society. The NHA changes provided that shelter costs should not be more than 25 per cent of the monthly income, but they allowed two thirds of the second family income to be computed to satisfy that 25 per cent requirement. Couples could buy a house with \$2,500 down and often took out an under-the-table second mortgage of up to \$1,800 from the gas company if a gas furnace, a gas water heater, a gas stove and gas clothes dryer were installed.

Many couples loved the privacy of their houses but did not realize Scarborough had more railway level crossings than any municipality in Canada and that trains blew their whistles about 6 a.m., which was too early to get up but too late to fall back to sleep, hence the high birth rate.

The wife became pregnant and had to quit work. The income that was supposed to assist in shelter costs was lost. The family went further into debt and the wife had to return to work as soon as possible, resulting in what was commonly called the latchkey era of children left on their own before school, at noon hour and after school.

That unprecedented plunge into debt, triggered by allowing young people to get privacy for 10 per cent down, changed our society from a one-income to a two-income society. In 1964, education costs began to swamp Scarborough. The process was hastened by the Metropolitan Toronto School Board, which was controlled by the school board of the city of Toronto, shortchanging Scarborough of \$1 million a year of the grants given by the province to the Metro board on behalf of Scarborough. To slow the birth rate, our board of health introduced and operated family planning clinics when they were illegal under the Criminal Code of Canada, and we were greatly assisted by the introduction of the pill in the early 1970s.

In 1979, during an election campaign, the then Premier of the province

received a white paper from his Deputy Minister of Housing, warning against introducing rent controls. The paper was never made public. The deputy was turfed. At the same time, the Toronto Star featured quotes from the leader of the New Democratic Party about four couples who claimed their rent was too high and that shelter cost was their biggest expense. No mention was made of their two cars or their two vacations per year.

The Premier panicked and used the divine right of kings unilaterally to announce rent control retroactive to 1974. The rationale was to protect against rent gougers and to limit increases in the family's largest expenditure. The rents were frozen retroactively to 1974 and an annual percentage allowance increase without review was mandated.

The landlord who was charging a medium rent in 1974 had his annual increase applied to a lesser base than the landlord charging a higher-than-medium rent in 1974. Instead of penalizing the rent gouger, over the past 11 years rent control has widened the advantage of the 1974 high-rent landlord relative to the medium-rent landlord.

As to the second rationalization about the largest family expenditure, consider these facts: most couples find it necessary and/or desirable to work. Both drive vehicles. As of July 1, 1986, the Runzheimer report documents that a Chevrolet Celebrity costs \$4,425 to operate for 12,000 kilometres. A couple in a rent-controlled apartment operating two medium-priced cars spend \$8,850 annually, or \$737.50 per month. Measure that against the rent paid by couples you know who live in rent-controlled shelter.

13:40

At present, house construction is booming and mortgage companies use a guide of 30 per cent of family income when approving mortgages. I ask each of you to compare the rent-controlled rents as a percentage of income of couples you know to the carrying costs as a percentage of the income of couples you know purchasing a house.

Profiles of tenants' declared incomes show most paying less than 30 per cent for their rent-controlled shelter. Progress is a turning wheel. In 1975, in a fashion peculiar to Canada's largest-circulation daily newspaper, the Toronto Star stampeded the Premier into a grasp for votes. Ten years later, upon more mature consideration, the wheel turned 190 degrees. I have attached the editorial of October 9, 1985, which is appendix 6, in which the Star admits it was a mistake to support rent control in 1975 and now advocates that rent controls be abolished.

With regard to jobs, since the desperate amendments to the National Housing Act in 1949, our economy has become overly dependent on construction to create jobs, not only construction jobs but the manufacture of all the goods and services that dwellings require. Construction accounts for more jobs than the government-pampered automobile industry.

Our association membership peaked in 1973 with 64 members. We have had 76 members leave the industry and our membership now stands at 35. We had a vested interest; it is fading fast. Cadillac and 75 other builders have abandoned the industry and stopped creating jobs. The mathematics do not allow the builder to start a rental apartment.

While composing this presentation at my desk, I received a letter from a member who built 8,000 apartment units before rent control and who carried



membership in this association until now in the forlorn hope that conditions would change. They have not. He has cancelled his membership and, even though he has apartment-zoned land in his possession and offers of mortgage money, he has given up hope. The house building boom is using up land, some of which should have been zoned for apartments. The longer rent control stays in place, the more difficult it will be to find apartment-zoned land and the present gap between market rent and economic rent will continue to widen.

The foresight shown by the founders of the Metropolitan Toronto Apartment Builders Association in approaching the construction trades council to embrace unionism and negotiate a peace treaty to stop the violence in the industry that the government ignored, led to the world's most productive apartment construction industry. It supplied a volume of dwellings that held rents relatively static for many years and produced work for a great number of tradesmen as well as a market for manufacturers of building materials, furnishings and furniture. Rent controls have reduced the industry to 38 projects in June of this year.

The government has controlled landlords since 1975. This year, it has added the doctors. Who is next? If cars are now the family's largest expenditures, perhaps you may want to drop the offshore quotas and allow the price of cars to drop, or perhaps we should transfer rent control over to car price control legislation.

In conclusion, the decision to start an apartment building is based on the builder's estimation of whether the market rents will approximate the economic rents over the amortized period. Bill 51 perpetuates the temporary rent controls legislated in 1975, giving the signal to the remaining apartment builders to seek other endeavours.

The federal government deficit has forced a re-evaluation of Canada Mortgage and Housing Corp. housing programs and the federal government is backing away. The provincial debt should dictate a re-evaluation of provincial housing programs, and the municipalities have neither the financial resources nor the mandate to be involved in subsidized housing.

Our economy is supposed to be market-driven, and our choice of living accommodation should reflect our ability to afford individually and collectively. In 1936, I delivered bread in my home town of Burk's Falls for five cents a loaf and I tend, as many others do, to think of the past in dollar terms.

For a moment, consider this arithmetic. Our members pay to or on behalf of a labourer the lowest construction union scale, \$16.51 on the contract plus \$1.65 for workers' compensation, 63 cents for unemployment insurance and 40 cents for the Canada pension plan. That is \$19.19 per hour.

A labourer can work 52 weeks, less three weeks' vacation; 49 weeks times five days is 245 days, less eight holidays. That is 237 days. A labourer works 44 hours a week divided by five, or an average of 8.8 hours a day, times 237 days. He works 2,085.6 hours per year. At \$19.19 an hour, the cost to the employer, that equals \$40,023 per year.

If that is divided by 100 and multiplied by 30 per cent, it means he has \$12,007 available for shelter costs. Divided by 12, that comes out to \$1,001 a month, and that is without considering any other family income.

It is perhaps noteworthy, as Mr. Sewell has revealed in one of his

recent columns, that the Social Planning Council of Metropolitan Toronto estimates the 1985 median income of a family in the Toronto area was \$40,000. At 30 per cent for shelter costs, half the families could afford \$1,000 a month for rent.

The average rent-controlled apartment rented for about \$500 a month in 1985, indicating that all tenants with a family income of more than \$20,000 were paying less than 30 per cent for shelter costs and were being subsidized by the landlord and the provincial taxpayers.

Since 1949, the federal government has pump-primed the construction industry to create employment to relieve it of its responsibility, yet it has not appropriately assisted in the financing of the infrastructure costs that flow from the residential construction on to the municipalities.

Neither the federal nor the provincial government has had the foresight to legislate against offshore money buying up properties in our urban centres. Offshore dollars being buried in Canada are not comparable to Canadian dollars, and have driven up the values in Toronto to where the downtown Toronto values are the highest in the country.

Cityhome, the province and the federal government have combined to construct subsidized housing on the highest-value land in Canada. It is ridiculous. The highest-value land should be returning the highest taxes to the municipality and should not be taken up by subsidized housing in a phoney federal park.

Government has fudged the cost of subsidized shelter. When voters realize the amount of their tax dollars going to subsidize tenants, not subjected to any income verification to assure that they are entitled to the subsidization, we should see a tax revolt.

Mr. Chairman: Thank you, Mr. Mallette, for a very lively presentation. Are there questions or comments from members for Mr. Mallette?

Mr. Davis: Mr. Mallette, the minister has indicated on several occasions that because of what he indicates will be a fair return on investment, Bill 51 will stimulate the construction of new apartment buildings--at the high level, granted. As a representative of the Metropolitan Toronto Apartment Builders Association, would you or your association be in agreement with that stand?

13:50

Mr. Mallette: I think all of the 38 buildings under construction in June were condominiums, so I do not know. I know there are some units being built at the waterfront on federal park land; I do not know of any others.

I do not think you can buy land today at normal market prices, build an apartment and be able to rent it, because rent review has artificially held down the rent in pre-1975 buildings. When you try to build post-1975, the rents you can command for those houses are tempered by the low rents available. Nobody is going to move out of rent-controlled shelter to go into a building or buy a house that is going to cost \$1,000 or \$1,200 per month.

CMHC does a vacancy rate study every six months. They break it down at 1975, and the only appreciable vacancy is in the post-1975 buildings. The only buildings being contemplated by the members of my association I have talked to are condominiums.

Mr. Stevenson: Of the condominium construction going on, is there much that is licensed as a condominium that is being rented out?

Mr. Mallette: If I can tell you a brief story to illustrate, there was a German lady professor who took a job at the University of Toronto. She went on vacation to Mexico, came back, tried to get into her apartment and she could not get in. She went to the superintendent of the building and said, "I cannot get into my apartment." He said, "Who are you, lady?" She said, "I have rented this apartment." He said, "Oh no, that belongs to Mr. X; he is the tenant there."

That was splashed on the front page of the Star. Three days later, on about page 49, there was a little story to say Mr. X was now living in Montreal in subsidized housing. He was supposed to be paying \$555 for his unit in Toronto. He had rented to this lady for \$777. While she was away on vacation, he found another sucker who was willing to pay \$888, so he changed the keys and rented it to the second one.

To illustrate the point, rent review control is not a control on a tenant; the tenant can sublet at any amount he wants. It is true, Bill 51 proposes that the tenant be subject to the same controls as the landlord for a change. However, there is no control on condominiums. If somebody wishes to buy a condominium on speculation and then rent it out, nothing in your legislation controls that.

Yes, you will find a lot of the units that are being sold as condominiums are being bought on spec, because you are allowing money to come in from Hong Kong and from Switzerland. You are driving up the value of land in downtown Toronto. It is touted as a good investment to buy property, including condominiums. Therefore, there is speculation on condominiums and they will become rentals.

Mr. Stevenson: Do you have any feeling for what percentage is being rented?

Mr. Mallette: No, I do not. If you took a profile of it, you will find that for anything that is being sold from \$150,000--perhaps \$175,000 now--upwards, there will be people living in their own units, but for the condominiums below \$150,000, my guess is that more than 50 per cent would be rented out.

Mr. Stevenson: Do you see any way of deregulating in some form or other that will still give some tenant protection to those who need it and that will get builders building again, other than simply axing rent control?

Mr. Mallette: For a short time just prior to rent control, the federal and provincial governments asked builders to accept into a building a percentage--they started at 10 per cent and went to 15 and then 20 per cent--of persons who had been means tested and determined as being in need of assistance for the rent. If you want to go back to when Mr. Macaulay proposed the rent certificate plan before they set up Ontario Housing, that was probably a very good idea; unfortunately, it was not instituted.

It took into consideration the family's requirements and its income. The family was given a rent certificate in the amount that was necessary to augment its rent up to market rent, based on a means test. Under OHC, as the children grew up and the family's income improved, it was supposed to pay rent according to its income.



When the means test was instituted, the government assisted in the rent. As the family's income went up, as the family grew and its responsibilities lessened somewhat, the rent was supposed to go beyond the market rent. Unfortunately, led by the New Democratic Party opposition in the House, the Legislature changed that. Now you cannot even ask anybody to leave subsidized housing; they remain. As a matter of fact, two MPPs used to live in Flemington Park. Jim Renwick and his wife Margaret were both MPPs and were living in subsidized housing in Flemington Park. It was prostituted out of what it was supposed to be.

My answer is means-test people, assist them. I would never object to that, nor would anyone else paying his own way. If I am paying my own way and someone else's way, I would like to know he really deserves the assistance. In subsidized housing, two thirds of the people are not tested. The way you get into Cityhome is be a friend of a politician or stay overnight in a lineup. You are not means-tested. In subsidized housing, you are not even sure you are helping people who need help. If you use the 30 per cent guideline, approximately 80 per cent of people in rent-controlled buildings are paying less than 30 per cent. That is not fair. Introduce a means test and help the people who need help.

I do not understand why the province is in the business. The second chairman of Ontario Housing Corp., Emerson Clow from Thunder Bay--Ken Soble was the first--in 1973-74 recommended to the government, "Get out of it." You are locked into a phoney situation on the provincial level. Hellyer had an executive assistant by the name of Lloyd Axworthy. You have probably heard of him. He spent a number of years at the University of Winnipeg on a grant from the Canada Mortgage and Housing Corp. Why in hell, I do not know. He was there for years and he was supposed to be devising ways by which you can force an income mix into an apartment building.

If you go out to Main Street at Danforth, there is a building built on railway land. We give land away to railways and then we forget about it. Suddenly you find a house on it. That is supposed to be integrated. Go out and have a look at it some time to see how successful it is. I read you three quotes. The federal level cannot do it, the provincial level cannot do it and Cityhome cannot do. I do not understand why they even want to.

If I can pay my own way, I will choose where I want to live. If I am earning too much money to qualify for a subsidy, there is something in my psyche that tells me, "Cheat the system." In Garth Turner's column in the Toronto Sun the other day, a couple wrote and said: "Gee whiz, we have \$350,000. Would you advise us how we should invest this? Here is our situation. We are living in a rent-controlled building. We are paying only \$450." No wonder they were able to save \$350,000.

Mr. Chairman: There are no other questions, Mr. Mallette. Thank you very much for appearing before the committee.

While we are waiting for the next presentation, there are two pieces of paper being circulated. One has to do with the paper of Frances Slate, the next presenter; the other is the schedule of hearings for next week for committee members. It is a full week, which I am sure does not surprise you.

Is Frances Slate here?

Mrs. Slate: I am.

Mr. Chairman: Please take a seat and be comfortable. Do you have a copy of your remarks?

Mrs. Slate: I sure do.

Mr. Chairman: Mrs. Slate, did you send a presentation to the committee ahead of time?

Mrs. Slate: I presented the young lady over there with a chart.

14:00

FRANCES SLATE

Mrs. Slate: I have some remarks. I am just an individual. I own a triplex. I am just an ordinary, decent, honest taxpayer. One thing I want to state before I read my remarks is that I think government has overlooked the very small rental property owner of the duplex, triplex, fourplex, etc. I am not a major construction company. I do not even think that way. I just want to tell you one thing. There are a lot of people out there just like me.

In 1975, the prevailing government imposed temporary rent control. I can prove to you how today, 11 years later, that foolish policy is virtually destroying a minority of mainly decent, hardworking citizens. If you will refer to the chart I have provided, you will see a true record of what is happening in the real world of rent control and its devastating effect on very small rental property owners such as myself.

As you can see, not once during eight and a half years of ownership have I been permitted to cover operating costs, let alone been allowed any return on my invested capital, which to date is far in excess of \$100,000, nor do I receive any reward for my labour. I do small electrical repairs--believe it or not--maintain the grounds, cut grass, shovel and clear snow and--believe it or not again--I have recently tackled concrete work.

In spite of trying to keep operating expenses down, my losses are appallingly high. Please note that on no less than three occasions within a seven-year period, I have drastically reduced my mortgage repayments. Under normal home ownership, this would be occasion to celebrate. For me, this is not so. Even with my artificially low mortgage payments, I am still in a deficit position. It is conceivable I always will be.

My neighbour, a triplex owner, has no mortgage and he considers himself fortunate just to cover his operating costs. Close by, another neighbour with a sixplex has two apartments standing empty. As his tenants vacate, the units will remain vacant. He told me he just will not re-rent.

There is another horrifying factor. What would happen should I have to sell my property? I may very well be deprived of its real value. You might ask why I have almost cleared my mortgage. In my case, it was a matter of survival to meet unrelenting and ever-increasing costs and taxes. The original property tax in 1978 was \$2,296.49. Eight years later it is \$4,235.23. Not to be dismissed was the crippling inflation we all experienced during this period, the only exception being the protected tenants.

I am sure you are all familiar with this euphemistic expression we keep hearing, "chronically depressed rents." Putting the nonsense of the proposed Bill 51 with its equally nonsensical two per cent special circumstances

catch-up aside, what is the real meaning of this phrase? Permit me to translate it for you.

"Chronically depressed rents" means subsidization and, with government forcing me to comply, that translates to oppression. Is it not oppression to treat people in the same field in a different way? Is it not discrimination to say one will be permitted a fair return on his investment but another must sustain a loss?

As a matter of interest, when I bought my triplex in 1978, I inherited the tenants in apartment 3. They were retired senior citizens, very nice people. They were partners in a dairy chain of businesses and they also owned a shopping plaza; yet when I applied to rent review in 1982, the old gentleman came along to the hearing with his lawyer in tow. His rent was \$361 a month; it was officially raised to \$425.

All three apartments are very spacious. The two-bedroom units are more than 1,200 square feet, and I have had professional renovations, which included new, top-of-the-line appliances, done on all the units. All in all, I have spent close to \$30,000 on the building, which is not reflected on those charts.

The subsidizing of rent to provide low-cost accommodation is surely the inherent responsibility of local or provincial government. We have a political system that states it champions individual industry. It commends the pursuit of free enterprise. Just how credible are these words? Witness the ever-growing restrictive regulations of suffocating state presence that has brought an industry to an abrupt halt. Is it democratic? Is it honest? It certainly is shortsighted.

There is a solution. I suggest that the many millions of tax dollars now being wasted administrating a totally unproductive bureaucracy be applied to the construction of subsidized accommodation. An excellent record exists for senior citizens' housing. Surely this can be, and must be, expanded upon to meet the obvious crisis that government must face. Do not expect your 11-year-old whipping boy to solve this government mess-up.

In closing, I urge you in the name of logic to do everything within your power to dismantle without delay this stifling legacy of government enterprise, because it simply does not work.

Mr. Chairman: Thank you, Mrs. Slate. Are there any questions from members of Mrs. Slate?

Mr. Reville: I appreciate your carefully detailed presentation, Mrs. Slate. Can you tell me what your hopes were in 1978 when you were contemplating buying this triplex?

Mrs. Slate: Yes, very clearly. Actually, it was in 1977. It was a feasibility thing. I bought a triplex for two reasons. My husband was alive at that time. He had a very bad heart, and I was looking into buying a house. We were apartment dwellers, always had been, and had never owned a property before. I was thinking that a triplex with just a few short stairs going in straight would be on one level for him and would not be a strain on the heart. That was one thing.

I also said at the time to my husband that, like every ordinary person, the day we could finally tear up the papers on a mortgage would be the day



when, we hoped, the two rental units would give us in our old years at least our accommodation. I am not Belmont Construction; let us face it. This was just a small thing with a small aim in mind. That is the truth. That is why we bought it. Unfortunately, my husband lived all of 11 months and I lost him to a heart attack. Since then I have been carrying on alone, doing concrete work, stuff such as that, not that I would let him do it anyway.

Mr. Reville: It probably had not been your plan in the beginning to become a mason. Do you have other income?

14:10

Mrs. Slate: I have other investments, but I have worked all my life. I was with Bell Canada for 22 1/2 years. My husband was with the Woolworth Co. for 28 years. He actually died while he was in their service. As you can see, we are not entrepreneurs; we are ordinary people.

Mr. Reville: How do you manage to sustain those losses? It must cut greatly into your other income.

Mrs. Slate: It sure does.

Mr. Reville: Does it make you want to sell?

Mrs. Slate: If you want to buy, I will sell.

Mr. Reville: How much of a mortgage can you give me? I have about \$12.

Mrs. Slate: I have a very low mortgage at the moment because, as you see on the left, I cleared a second mortgage. I took out \$10,000 in 1983 and another \$30,000 in 1984. If you look across from the 1984 column to 1984 where you can see-- Is yours in red and blue?

Mr. Reville: Yes.

Mrs. Slate: You can see that the red is the only year where you can see an appreciable lower amount in my operating cost. That was directly because of a savings of more than \$3,000 a year because of that \$30,000, which saved on the mortgage payments. I can clear my mortgage, but where I have a problem is that if I have no mortgage, I will still be in the hole on operating costs. It is incredible. They are magnificent apartments. You should see what I have done.

Mr. Reville: Are they in Toronto?

Mrs. Slate: They sure are. They are near Avenue Road and Lawrence Avenue, a very good location.

Mr. Reville: It is a nice neighbourhood.

Mrs. Slate: Yes.

Mr. Reville: You have owned this for about eight years.

Mrs. Slate: I bought the building in June 1978.

Mr. Reville: During that time did you ever seek any advice from the government about problems you were having?

Mrs. Slate: I went to rent review in the summer of 1982. Incidentally, I filed papers with the rent review commission during the last week in May and, like the proverbial lady in waiting, I am still waiting. I have not heard a word from them. It has been three months now.

Mr. Reville: Did you apply to rent review this year?

Mrs. Slate: I put in the application with the papers around May 26. That was three months ago, and I have not heard a word.

Mr. Reville: Did you find your earlier experience at rent review was a happy one?

Mrs. Slate: Yes.

Mr. Reville: It was okay.

Mrs. Slate: Yes. You can see here in 1982 that it increased the rents by \$163 a month. These figures that you are looking at, called "generated rent" in blue, include my taking my rent into consideration. This is based not just on two but also on mine. In the two expensive ones, and I have kept mine up with the other one, you are not looking at two rents generated; you are looking at three.

Mr. Reville: You have included in your revenues an amount that would have been equal to your rent?

Mrs. Slate: Comparable with number 3--I am in number 2--for every penny.

Mr. Reville: We have heard from a number of small property owners such as yourself with problems very similar to what you have told us today.

Mrs. Slate: It is not a pretty picture, is it?.

Mr. Reville: Like you, they painted an unhappy picture. I do not have any more questions, although I wonder whether Mr. Church could comment on the fact that an application was made to rent review in respect to this property in May, and here it is almost September and nothing is happening. Is that common?

Mrs. Slate: Three months.

Mr. Church: I have no knowledge of either the application or the normal waiting time, but I would be delighted to look into it and report back.

Mrs. Slate: It is three months now. I went there about May 26.

Mr. Reville: Does Mr. Peters have an answer? Is that a normal time period?

Mr. Peters: I cannot repond specifically to the application, although I think the average time between the application and the scheduling of the hearing is about 182 days.

Mr. Chairman: Was the hearing already held?

Mrs. Slate: No. I filed the application with them the last week in May and that is the last I heard of it.

Mr. Chairman: Mr. Peters is saying that is not unusual.

Mr. Peters: That is my understanding.

Mr. Reville: Before I cede the floor, one of the changes contemplated in the bill is a much speedier and less adversarial rent review process in which it is promised by the government that the time period will be much compressed. Someone may want to speak to it later, but it seems that at least one problem can be dealt with by the Legislature. That is not much.

Mrs. Slate: With all due respect, because someone is going to be nice and look at these figures, he is going to say: "What the hell is going on? Someone here is subsidizing someone." As nicely as you put it, gentlemen that you are, the whole thing is no damn good. I wonder whether you people are looking a few years down the road. What is going to happen in 10 years? I came from London to Canada 30 years ago. They have a problem there today that is still overlapping what it was then. People in local borough councils wait 10, 15 or 20 years for a council flat. To this day it is chaotic.

Mr. Reville: Did you know they are now selling council flats?

Mrs. Slate: I understand they are. It is almost impossible to rent an apartment in the city of London, which is a city of 10 million people. You can buy, but you cannot rent. I am not so hardhearted. I have been subsidizing one person who has left now, but she did not have much money. The picture does not tell you that.

There was a Mr. McGrath here yesterday. He showed a wee bit of compassion for an elderly pensioner, and I was a little stunned when a chap sitting there--Mr. Pierce, I believe--jumped down his throat and said something like, "You are breaking the law." Right away I got a mental picture of this poor bloke McGrath with a yellow striped thing looking through bars. What are you going to do with someone who shows compassion and breaks the law? This is incredible.

We are speaking of Canada. Look at the apartments that were available for people to rent when I came here. They would get three months' free rent. You need to dismantle this thing over about a five-year period; set a goal to dismantle rent control completely. It is traditional that you are always going to have a segment of the population that will need assisted housing. It was needed in the 18th and 19th centuries and it is going to go on. It will go on forever. There will always be people who need it.

You had a Landlord and Tenant Act long before rent control. You had low-cost housing before that. There will always be a need for government to provide this, but to shift something such as this onto the hands and shoulders of people like me and big people is going to rebound politically, mark my words. Sooner or later, when you have waiting lists of thousands of people, they will not give a damn whether it is Liberals, New Democrats or Conservatives running the shop. They are going to say, "Do something." By that time you will be so high up in such a mess that you will not be able to.

Use the funds now. Dismantle. Make a profit ceiling, if you like, until you can get some construction under way. You will get people such as I have who own shopping plazas and chains of businesses but who are going to put up a fight because I want to raise the rent from \$361. You heard the other gentlemen. It is ludicrous. I am not talking about fair; it is totally illogical.



Mr. Stevenson: I wanted to check on how Mrs. Slate had arrived at the income side here, and the question has already been answered.

Mrs. Slate: You have three apartments, including mine.

Mr. Jackson: Thank you for your presentation. Early in our deliberations we were anxious to receive figures on an actual building, even though this is a small one--

Mrs. Slate: It is just a triplex.

Mr. Jackson: --but with all the expenses and income set out and scheduled for us, and for that we want to thank you. I am interested in your level of understanding of Bill 51 and how it will, if it is passed as it is--let us assume it will be passed as it is.

Mrs. Slate: In its present form?

Mr. Jackson: Mostly in its present form. However, you have told us what you think of that. I am asking you if it should happen--

Mrs. Slate: God forbid.

Mr. Jackson: God forbid. In 1984 you paid down your first mortgage by \$30,000. Are you aware that under Bill 51, you will be penalized from rent increases because you took that initiative to reduce your expenses?

Mrs. Slate: I did not know, but I am not surprised, because there is one word that seems to--I read Bill 51 just once. It seemed to me it was like a manifesto coming down from the Kremlin.

14:20

Mr. Jackson: That is a quote we might want to use later. For the moment, perhaps I can call on Mr. Church to explain this to Mrs. Slate, given that she is not aware of the impact of Bill 51 on the fact that she has reduced her debt charges. Can Mr. Church advise Mrs. Slate of the impact of Bill 51, as now proposed, with respect to future increases that she will be in a position to recoup?

Mr. Church: Certainly. The first question is, was the triplex rented as a rental premise prior to 1975?

Mrs. Slate: Yes, it was a legal triplex.

Mr. Church: Then the answer to the question asked is that the allowable rent for this unit under Bill 51 will be the actual operating cost experienced since July 1, 1985, on top of the actual July 1, 1985, rent. Any debt paid off or any invested equity in the building will not be specifically recognized unless the property meets the condition of either hardship relief or chronically depressed relief.

Mrs. Slate: It is understandable. You asked me about Bill 51, about the thing that was in this. Two things stand out in my mind. There is the aspect I view as a carrot-dangling operation, which is some sort of incentive to get the industry, the big developer, moving. That is one aspect that does not touch me, because I am not in that bracket anyway.

You also have this other thing, this two per cent catch-up. How in hell can you catch up when you are \$3,000 in the hole each year? Two per cent will not do it. I am not a mathematician, but look at these years. Look at the chart. This year is going to be equally dismal, perhaps more so.

Mr. Church: If there is a loss on operations--

Mrs. Slate: There is.

Mr. Church: --under both the existing legislation and the new legislation you would be permitted to raise your rents to the point of break-even. The issue that was raised was whether the equity you invested to pay off your first mortgage would be counted into it, and the answer is no; but under both legislations, if these figures reflect your operating circumstances, you should be able to move your rents up to the point where you break even--including your own rent, of course, the hypothetical rent that you yourself pay.

Mrs. Slate: Naturally.

Mr. Church: In addition to that, in the event that you meet the qualifying requirements, there are minor opportunities, and I think you are quite right that they are minor opportunities, to improve the situation. It is a question of moving closer to what you think would be just, not moving to it.

Mr. Jackson: Perhaps I can continue with my questions. Mrs. Slate, at any time during the past eight months did you receive any information from the Rent Review Advisory Committee or were you able to receive any information through the media or through any source regarding the work of the advisory committee? This is the group of nine landlords and nine tenants that came to develop Bill 51 as a consensus document.

Mrs. Slate: Do you mean prior to the actual construction of the bill in printed form?

Mr. Jackson: That was the process the minister set up.

Mrs. Slate: You are talking about the stuff leading up to that.

Mr. Jackson: That is correct.

Mrs. Slate: No, I had no idea of this.

Mr. Jackson: My final question is for Mr. Church. Is there anybody on the rent advisory committee who represented in whole or in part a situation similar to the one Mrs. Slate is bringing to the committee, a landlord who might own only one or two small buildings such as a triplex?

Mr. Church: Yes, there is a landlord and there is a legal adviser, two people in that situation, and the head of an association that represents people in that situation. There are really three people who purported to represent that situation.

Mr. Jackson: There was one specifically who--

Mr. Church: A small landlord.

Mr. Jackson: --owned a small triplex or fourplex?

Mr. Church: Yes.

Mr. Reville: Mrs. Slate, do you belong to the Fair Rental Policy Organization of Ontario?

Mrs. Slate: Fair rental policy? No, not to that organization.

Mr. Reville: Do you belong to Mr. Schwartz's organization?

Mrs. Slate: Yes, I do.

Mr. Reville: Okay. He was on the Rent Review Advisory Committee. What is that organization called?

Mrs. Slate: The Multiple Dwelling Standards Association.

Mr. Reville: Yes. Mr. Schwartz is often here.

Mr. Jackson: The point I am trying to establish is that there was no information transferred to you from a member of the committee or his parent organization during the course of the eight-month period.

Mrs. Slate: Not that I can remember, because we meet only about once a year for lunch or dinner, like Mr. Church. I honestly do not remember anything about the upcoming attractions of Bill 51. I really do not know.

Mr. Chairman: Thank you very much, Mrs. Slate, for appearing before the committee. We appreciate the experience of people such as you who own one building.

Mrs. Slate: Believe me, Mr. Chairman, I am not alone. There are an awful lot out there. I know quite a few.

Mr. Chairman: Is Mr. Goldlist, of Goldlist Property Management, here? Would you have a seat and be comfortable?

Mr. Goldlist: Thank you.

Mr. Chairman: Are you Mr. Goldlist?

Mr. Goldlist: Yes, I am, George David Goldlist of Goldlist Construction Ltd.

Mr. Chairman: Welcome to the committee. We appreciate your presence here. Perhaps you would introduce your compatriot.

GOLDLIST CONSTRUCTION LTD.

Mr. Goldlist: Thank you. Next to me is our vice-president and general manager, Gary Griesdorf. We are representing Goldlist Construction Ltd. today.

Good afternoon, Mr. Chairman, and members of the committee. My name is George Goldlist, and I have been in the development business since 1952, a period of more than 30 years. Between 1952 and 1962 I constructed approximately 1,000 single-family homes in Etobicoke, East York, North York, Mississauga and Oakville.



I have been told that in many ways I am unique. As a small builder, I have taken personal pride in the construction of my buildings and in their maintenance. Because my offices have always been in my own apartment complex, my tenants and I have been on a first-name basis with one another, have ridden the elevators together, have swum in the pool and have parked in the same garage. In recent months I moved into one of my own buildings, so it can be said that I have truly arrived as a tenant.

Let me make one comment here, a comment that at least has encompassed this business. I had to pay key money to get into my own building. That is very embarrassing.

Mr. Reville: That is illegal. Do not do that again.

Mr. Goldlist: That is not true, but I could not move outside. I paid it myself because I am president of a limited company. The tenant was renting on a monthly basis. He could move at any time, and I wanted a suite. We sold our home; our family moved out. I issued a cheque to get him out, because he sold me carpets that were worth X number of dollars. I paid 10 or 20 times what they were worth. The committee should be aware of the situation.

Goldlist's first introduction into rental accommodation was in 1956, when we built a number of sixplexes in North York. We commenced the construction of mid-rise apartments in 1958 in Thorncliffe Park, with a 60-unit apartment building project that we still own and manage.

Subsequently to that date, we built 3,000 high-rise units in East York, 2,500 units in Etobicoke, 1,000 in Scarborough, 250 in the city of York, 500 in North York, 2,500 in Mississauga and 300 in Ottawa. This totals approximately 10,000 rental units, a figure to which must be added a substantial number of condominium units in various parts of Ontario, as well as in Hull and in Florida.

14:30

In the early years of our apartment construction we buffeted through many ups and downs in the marketplace, where our competitors offered various inducements to their prospective tenants. Rather than concede to superficial enticements, we adopted a philosophy of providing larger suites and more reasonable rents in order to lease out our buildings as quickly as possible.

To retain our tenants, we worked closely with them, keeping our lines of communication open and allowing close accessibility. As a result, a Goldlist-managed building became known as a pleasant place to live, and our turnover was at a minimum.

With the introduction of rent review in 1975, we accepted the government commitment that it was only a temporary measure. In good faith we continued to build rental apartments after 1975, some of them as joint ventures with financial institutions and others with private investors. Our projections on the post-1975 apartment buildings were based on a negative cash flow for periods ranging from five to eight years. It was impossible to obtain sufficient rents during those initial years to break even.

Construction and operating costs accelerated during the 1970s to such an extent that, though there was a considerable gap between the rents charged on units in controlled buildings and those in the newly constructed apartments, we were still unable to break even in the new construction. Nevertheless, we

felt confident that over a period of years the rents in the new buildings would accelerate to achieve, first, a break-even point, and subsequently a return on investment. We patiently awaited that time.

It was my intention to own and maintain these buildings on a long-term basis. With the extension of rent controls, I am forced to reconsider my position on retaining these buildings. Our last building, consisting of 322 suites, was constructed at 30 Elm Drive in Mississauga and was opened for occupancy in February 1984. It took 15 months for the building to be leased up.

Early in 1985 we were discussing with our institutional investors the viability of developing new rental apartments. With the announcement of the intention of the new government to extend rent controls to all rental accommodation, including buildings constructed after 1975, all our institutional investors indicated that they no longer had any interest in any future rental apartment development. That was the final answer from them at that time.

With the formation of the new government in 1985, the industry became aware that policies were being reviewed and decisions made without our industry's viewpoints being considered. The various apartment building industry groups realized that, with the industry's future in jeopardy, an umbrella organization that would encompass the many individual groups having a common interest had to be formed. I believed it would be in our interest to become actively involved in such an organization and supported our vice-president and general manager, Gary Griesdorf, who took an active role on the executive of this committee, the Fair Rental Policy Organization of Ontario.

After many meetings with the government in the fall of 1985, Bill 78 was introduced, and with its announcement came an overwhelmingly negative reaction from the industry. The group met with the Minister of Housing (Mr. Curling) to express the industry's view, and ultimately the minister was instrumental in establishing the Rent Review Advisory Committee, consisting of nine landlords and nine tenants, to discuss ways of alleviating existing conditions in the rental market. Included among the landlord representatives was our own Gary Griesdorf.

After many frustrating months of meetings, to everyone's amazement, the committee finally reached an accord that we recognize is in many ways a compromise that is far from ideal from either the landlords' or the tenants' point of view but that at least it represents a start.

In my opinion, it should be a natural thing for landlords and tenants, who actually have many common interests, to work together for their mutual benefit. After all, tenants are our clients and customers. If we could have happy tenants and a reasonable return on our investments, an ideal situation would be achieved.

Historically, our company's philosophy has always been to establish a pleasant relationship with our tenants or customers. Even 20 years ago we held open meetings and discussions with our tenants and their leaders. The late Violet McIntosh was one. These meetings resulted in resolving minor irritants.

I must at this time take a break on Mrs. Violet McIntosh. Mrs. Violet McIntosh was a widow. Of course, that was 20 years ago and I thought she was pretty old; now I am practically the same age as she was. She had a tendency

to get involved in various tenants' problems. Every few months I would get a call, "Mr. Goldlist, would you like to come over?" I would go over to her apartment--she was one of our tenants--and every time I saw her, I knew it was going to cost me some money.

There was always a story, and truthfully there was a story. There was a widow. Her husband had died. "Please do not increase the rent." She offered me either coffee or tea. After a while, after so many trips there, when she offered me tea, knew I took tea with lemon and did not ask me, I knew I had been there quite a while. But she was a representative of the tenants and she worked with us, with me as a landlord, and rightly so, when she felt I could help out a tenant. In those days increases were enough. That was before inflation. They were \$2 or \$5 a month. She always managed, with a pat on my shoulder and a cup of tea with lemon, to get my approval.

I want you to know that in later years we probably regretted--I would not regret it; I still felt good about doing it--that some of those rents were locked in, because we did not get increases. When rent review came up, we were stuck with them, and I could still to this day, if I ever looked in my rent rolls, see where, with certain tenants, Mrs. Violet McIntosh had had influence to keep the rents low. But I still do enjoy her relationship with me, and I am very happy about that.

Thus, I feel that the current landlord-tenant advisory committee should be able to create the proper environment whereby landlords and tenants, instead of separately complaining to government about each other, can sit down and discuss their differences directly with one another. After all, what are landlords without tenants and tenants without landlords? Further, I believe that the landlords and tenants should continue the dialogue with a minimum of outside interference--for example, lawyers representing the tenants on one side and lawyers representing the landlords on the other side.

Although I strongly disagree with the principle of rent review, I recommend that Bill 51 not be altered so that we do not disturb the fine balance already so painstakingly established.

One of the most significant effects of the rent control process has been the serious deterioration of existing rental housing stock. It was inevitable that, with limitations on rental revenue, the landlord would have limited funds with which to maintain his buildings. Now we are experiencing the backlash of that situation. However, we do recognize the need for maintaining the quality of our buildings, and this includes the expenditure of substantial sums for various capital items.

Examples include repairing concrete delamination in parking garages caused by road salt; replacement of roofs following completion of their useful lives; conversion from galvanized to copper plumbing; replacement of appliances; repaving, etc., and also updating the fire safety retrofit following the Webber commission recommendations.

Currently, the landlord is being forced to bear the financial burden of these costs. An opportunity has been made to receive a recovery of this over a long period of time. It may be that in the future we must look at other jurisdictions that have experienced rent controls--an example is New York City--to see how they manage. In that city, for instance, tenants and landlords have agreed that buildings can avoid serious deterioration if improvements are made with a corresponding pass-through to tenants.



Although I do not like the idea of entrenching rent controls for the long term, I have to admit that it would be counterproductive to eliminate such controls entirely at present; but we must be looking for long-term solutions to solve our rental housing problems, instead of imposing Band-Aid solutions, which may perpetuate the present chaos--and I mean chaos--in the rental housing market.

Based upon an analysis of the 1985 applications in my buildings in East York, it is evident that more than 60 per cent of tenants were paying less than 20 per cent of their income on rent. This demonstrates that rent control does not necessarily help the people who are really in need.

14:40

I must go back 20-odd years. I have an architect who works with me, the same architect who has been with me for years. Our policy has been that, as we design a building and live with it, we modify the next building and keep improving. About 20 years ago, he went to Sweden with me and my wife to analyse and investigate construction and rental housing there. I recall it as clearly as if it were today.

There was a young architect who took us around. I said, "Where do you live?" He said, "I live by myself." I asked him if he was married; he was not. It did not work out too well to get married 20 years ago, he said, because if you did, you had to move out of a place and could not get an apartment. I said, "Why is that?" He said that because of Swedish rent controls in those days, the rent for a three-, four- or five-bedroom apartment was so low that even a widow with four bedrooms would not move out. I said: "That is strange. Is there not some way to get out of that?" I came back shaking my head.

We are facing this today in the Toronto market. We have people living in three-bedroom apartments who have been with us 15 or 20 years and have not moved out because they cannot get any other accommodations. Yet every day, I get calls from friends I have not seen in 20 years, asking me if I can get apartments for their children.

There is no way we can accommodate them. I can see no way to overcome this problem. I did not believe that 20 years ago in a country such as Sweden the process of government would result in that. I am facing it here and I am still shaking my head.

Looking back over the past 10 years since the introduction of rent controls, I have noticed that many key developers of fine rental accommodation have left the rental industry altogether. These include Cadillac, Shipp and Campeau. Ontario is the real loser of these excellent builders and landlords who have disposed of their interests and involvement as a result of government interference in our industry.

So far, I have remained as an owner and manager of our properties because I have enjoyed the participation. I look forward to a change in the political climate that will induce us once again to create new rental products. The passage of Bill 51, plus a firm, irrevocable commitment that we are entitled to a fair return for our labour and investments, would entice us back into building rental accommodation.

We in the industry are cognizant that 10 years ago we received a commitment that post-1975 apartments would never be under rent control. On this commitment, we built rental units and incurred initial losses, confident

that we would reach stability. Now we are put in a position where our entitled return on our investment is in doubt. We are critical of a policy whereby, when there are supply problems, the government deems it best to impose stricter controls, which ultimately discourage the production of apartments that this province so critically requires.

Going back in history, when there was a revolution in France and a shortage of bread, the first thing the mob did was burn down the bakeries. I do not know how that resolved the problem of the shortage of food. I think we are heading the same way. We are discouraging developers to build rental accommodation. For our industry's health, and ultimately for the health of the province, the builders must be given confidence and tangible assurances that there will be no further changes to the detriment of our industry.

Thank you for the opportunity to speak on this very critical problem.

Mr. Chairman: Thank you, Mr. Goldlist, for your presentation.

Mr. Reville: I am a little confused. Your third-last paragraph does not seem to be totally consistent with the thrust of your brief. Let me make sure I have this straight. Do I take it that you support Bill 51?

Mr. Goldlist: Which is the third-last paragraph? How does it start, "The passage of Bill 51"?

Mr. Reville: No. It says, "We are critical of a policy whereby, when there are supply problems, the government deems it best to impose stricter controls, which ultimately discourage the production of apartments that this province so critically requires." I agree that the province critically requires the erection of apartments. Are you saying the bill will discourage or encourage production?

Mr. Goldlist: Bill 51 is a step in having landlords and tenants sit down and discuss their mutual problems as much as possible without the politicians and the lawyers. Perhaps tenants can sit down with us and see that it is not a one-way street. If you omit the landlords and developers, you are harming the tenants, especially future tenants. As much as I do not agree with it all, Bill 51 is a step in the right direction.

Mr. Reville: Will it encourage you to build?

Mr. Goldlist: Bill 51?

Mr. Reville: Yes.

Mr. Goldlist: As I keep saying, Bill 51 is a start, if we have dialogue between the landlords and tenants and this keeps on and our people find there is the possibility to have confidence in this industry. You must earn the confidence. The government must earn the confidence of the industry or there will not be any building.

Mr. Reville: You are pretty good at politics yourself.

Mr. Goldlist: I am out of my element here. I am a doer. I am a producer. I am not in the element of talking to people. I should be out there building apartment buildings. Cranes should be swinging. That is what I enjoy and I want my kids to do that, but you have stopped it.

Mr. Reville: It used to be when those who could not do, taught, but there are now no jobs in teaching, so we are politicians. I guess that is the way it is.

Mr. Goldlist: I must admit that I am out of my element here. I am not a talker. I am not a politician. I am a creator. As you can see, the numbers speak for themselves. You have stopped me from creating and I am annoyed with you.

Mr. Reville: I would like you to create an answer for me now, if you will.

Mr. Goldlist: I will.

Mr. Reville: Is Bill 51 going to encourage you to rush out and build something?

Mr. Goldlist: You keep talking like a politician. You do not make any sense. I said Bill 51 is on the road. We will sit down and start talking. If the Legislature agrees that we are entitled to a return on our investment, we will go back and build.

Mr. Reville: Okay. What the minister has said to us is that Bill 51 is necessary to encourage builders to build rental apartments. A number of builders have said that is a load of phooey. For instance, Mr. Tenenbaum said he would not build a stick under this bill and Mr. Krehm said he would not build a stick under this bill. I must tell you they said it much more eloquently than that.

As we consider the bill, if one of the objectives was to encourage builders to build, we need to know whether they will and we need to know whether they did, because if they did not, and doing it is one of the objectives of the bill, the bill does not work. There are a lot of tradeoffs in this bill that the tenants do not like. They have told us very clearly in the past few days that they do not like it. A number of representatives of your industry have told us they do not like it.

I need a message from you that it is a bit clearer than what I got before. I know Mr. Griesdorf can do this.

Mr. Griesdorf: The answer depends on you, Mr. Reville. What Mr. Goldlist is trying to tell you--

Mr. Reville: Just me?

Mr. Griesdorf: --is that Bill 51 is a compromise document that has been discussed between landlords and tenants. What you do with it has to do with Mr. Goldlist's confidence in what he is going to do.

Mr. Reville: Right.

Mr. Griesdorf: If you on your own merits go around changing this because you do not like one aspect of it--let us talk about the economic aspects--you do not like it because it does not fulfil the needs of your constituency, then Mr. Goldlist is going to say, "I do not know whether I can trust the process the minister tried to establish, which was a communication of differences and problems between landlords and tenants."



Mr. Reville: I think there is already evidence that the process should not be trusted.

Mr. Griesdorf: You did not participate in that process. Therefore, you were not privy to all the debates that went back and forth in understanding each other's issues. He is looking for a level of confidence. We are not sure whether you are providing that level of confidence. He must know where he stands. He thought he did 10 years ago. He thought he knew that post-1975 buildings were not going to be subject to controls.

He calculated what losses he would have to incur over the next 10 years, five years or eight years until he broke even. Then he looked towards a reasonable return on the money that he had to support out of his own pocket in the first five to eight years and then get a return on his investment.

14:50

The process has now been changed by this bill and by the three parties trying to change the old rent review process. He sees a change. The confidence from before was shaken. What are the firm rules for the future? Are we going to establish them on the basis of the landlords and tenants continuing to talk or are we going to establish them on a rule that may change every three years?

That is the type of confidence he needs. He has to know that the rules are firm for 10 years or 20 years. Then he can build under those rules. If they change and the conditions change all the time, he has not got that confidence.

Mr. Reville: You know enough about the process to know that no Legislature is going to guarantee anything for 10 years. What we are going to get out of this session, I suspect, is a bill that will last until some huge protest forms against the bill. Then it will change. You know that. It is tough to run a business that way, I bet you, because you plan for the long period at a time.

Mr. Goldlist: We have been in it a long time. We enjoy the business, but right now I have no confidence, and we have not put out without it being subsidized. We built the last building--we stated right in there--of 322 suites on good faith at that time that we were not going to be included in that figure. We have announced four or five buildings but we have not made any money yet. You are stifling our chances of breaking even and making money.

If you think you are going to produce houses, if you think you are doing something for the tenants, you are mistaken. You are taking the product away from them. How do you bring down the bakers to supply bread? I do not see the common sense. I do not see how you can sit there and say you are protecting the tenants if you do not give them a supply, and we are the suppliers. You are driving us out of the market.

Please take a shovel, take a hat and build our apartments. See how you can produce them. It is unfortunate about Cadillac, Shipp and Campeau, excellent developers. If the landlord is doing so well, how come nobody is running, stampeding to build more apartments? What you fellows say does not make any sense.

Mr. Reville: Just a minute. Mr. Campeau, Mr. Shipp and Cadillac are out there building. They are not building apartments.

Mr. Goldlist: That is the answer. Why are they not building apartments?

Mr. Reville: They make much more money building something else.

Mr. Goldlist: Let me tell you what is happening. If we were building apartments now, we would be back giving out trips to Florida to entice tenants. We did not give out trips.

Mr. Reville: I remember those.

Mr. Goldlist: Do you know now that in office buildings, because it is an open market, you can get in some cases two and a half years' free rent on a five-year lease?

I am in the same position as the guy who looks after the building, which nowhere compares to the value we give. He does not have to do anything. I get 500 calls in a month from people. Perhaps I will give them your phone number.

Mr. Reville: Why do they not call you? I will give them your phone number.

Mr. Goldlist: They have my number.

Mr. Reville: You will be interested that I spent a lot of the years of my life doing an ancillary job to yours. I spent a lot of time taking the galvanized pipe out of and putting the copper pipe into many a high-rise apartment building.

Mr. Goldlist: Then you know the problems that we have.

Mr. Reville: It is a hell of a way to earn a living, I tell you.

Mr. Goldlist: At \$22 an hour or \$24 an hour? It is not bad.

Mr. Reville: Oh, no, more than that.

Mr. Goldlist: It is not bad.

Mr. Reville: I have one final question. We are heavily involved in two projects at the moment. They are not building projects but they are connected. One is the Rent Review Advisory Committee, through your employer, Mr. Griesdorf. The other is the Fair Rental Policy Organization of Ontario's campaign.

It strikes me that those two exercises are not hugely compatible, given that FRPOO's objective is to get rid of rent control and the Minister of Housing has stated that rent control is a permanent policy of his government. I have been scratching my head about how you could send Mr. Griesdorf off to RRAC on the one hand and be so heavily involved in the Fair Rental Policy Organization campaign to get rid of rent controls.

I am wondering whether either of you can help me with that.

Mr. Goldlist: The ideal situation would be to get rid of rent controls, but I am realistic. I would not like to see it happen because then

we are going to go back to gouging. I do not like to see that happen. It is not good for the industry. It was never any good.

The ultimate goal is agreed: to get rid of rent controls completely. Let us be honest. A lot of other developers would probably say, "Let us get rid of them," but I have to be realistic. I do not want to read in the paper that some poor tenant--that always gets the big headlines--had his rent doubled. We are not interested in that, but that is the goal in time. Right now we have to be very pragmatic and say that if we can get a decent return on a post-1975 building--and we are not--then we can use that cash flow and build new buildings, the same as we did before 1975, when we built buildings from the cash flow we had earned in a previous building and we stayed in business.

We are not speculators underneath. I guess there are one or two who have been in a long time, and we enjoy it. It is the ultimate goal to achieve for the tenants and the landlords. I want to be able to say: "I have to build an apartment and I have to satisfy the tenant, because he has a choice. He is going to go to a Goldlist building, Mr. Smith's building or somebody else's building." He does not have the option now. You are depriving him of an option because he does not have a choice. He has to beg, stay in line and pay key money to get an apartment. Is this what you want to achieve?

Mr. Reville: No. I do not like key money.

Mr. Griesdorf: Mr. Chairman, may I respond to that, because I am the one who has been going to those.

Mr. Chairman: Yes.

Mr. Griesdorf: I have no problems with any inconsistencies at all. As a matter of fact, my message is somewhat the same. When we are sitting at the Rent Review Advisory Committee, we talk in terms of the problems today, and even in our agreement we talked about looking at some of the formulae three years down the road to find out whether they were still valid. The idea that the minister had for all of us was that it would be an ongoing discussion. At the Fair Rental Policy Organization we recognize that there is a short-term problem. That is what we are dealing with at RRAC and that is what we are dealing with in terms of the people we talk to.

We also recognize that there is a mid-term and a long-term problem. We want to create an atmosphere where the province can have a sufficient supply so that the idea of rent control will be one where unreasonable rent increases can be avoided and where there is some stability in the market. Then maybe rent control will be something there in name only, because we will have the supply that is necessary. This is the type of thing we are working at in the Fair Rental Policy Organization.

If you look carefully at all the things it is trying to say, it is saying, "Eventually, down the road, let us hope there is no rent control because we will have the supply, we will have stability back on the market, the tenants will be happy because they have what they want, there will be the maintenance and there will be all the other things we talked about; and perhaps the politicians will have nothing else to do except maybe go after the dentists, the insurance companies or something else."

Mr. Reville: As a final remark or observation for your client, you have pointed out to me that a builder and an investor need confidence that the rules will not be changed in the middle of the game. I want you to remember



that tenants feel the same way. If they think rent control is going to go--and they know how hard you are working on that--then they are terrified they are not going to be able to afford the rent, so the confidence has to go both ways.

Mr. Goldlist: That is fair. I accept that. It is a mutual thing. I cannot see living without tenants, because they are my customers, and we have to satisfy them. But we are in a position now where some of our people have taken the attitude that the customer does not matter, because there are 500 customers for every suite. That is not right. You are not achieving anything by keeping that line.

I do not care what the tenants say. You can keep rent control, but it is not going to produce any rental accommodation. You know how many young people out there cannot get apartments, and it is only starting. Fortunately, interest rates are low and some of them can buy houses. I hate to think what would happen, the pressure on them, if there were no houses. We have lineups of people phoning. I had never heard of people phoning. The people who went to school 35 or 40 years ago now have grown-up children the same age, and they cannot get an apartment. What are you going to do with those things?

I am an accountant. I graduated as a chartered accountant in 1951. I liked the business, I went into it and I am staying in it. We did 1,000 suites a year for a few years. Going back to 26 Thorncliffe Park--

Am I out of time?

Mr. Chairman: No; go ahead. It is an interesting presentation.

Mr. Goldlist: In 1958 we had a 60-suite building at 26 Thorncliffe Park. I had built houses before. I put all my savings and all my money into that building. We built a six-storey building at Thorncliffe Park, and I will tell you, I did not sleep. I had sleepless nights, but it was fun.

We opened up the building on a Saturday morning. God behold, we had a snowstorm. I said, "Oh, God, what will happen here?" Would you believe, in the snowstorm a car pulled up and a guy walked out and asked, "Is this apartment for rent?" I said: "Yes. We just opened it up." He asked, "How much is it?" He took the top penthouse, a one-bedroom unit on the sixth floor, and gave me a cheque for \$125. I said, "This cannot be."

15:00

Mr. Reville: I hope he is still there.

Mr. Goldlist: I do not think so; it was 1958 or 1959. He gave me a cheque to pay the first month's rent. Here I could not sleep and worried, "Who is going to come and rent the 60 suites?" We had built little sixplexes before. I went home that Saturday night, picked up my wife and said, "I think it is going to be all right."

We still own and manage that building. Maybe I have not sold it because I have certain sentimental feelings about it. That was the business. We risked things. We produced, and I think you are harming the tenant as much as the landlord--maybe less than the landlord--if you do not work on ways to get the supply up.

Mr. Chairman: Can we move on, Mr. Reville? A couple of the other members have questions, and we are getting a little pressed.

Mr. Stevenson: I am not a representative of an urban area, so as I sit here and listen to the people presenting briefs and comments on Bill 51, I remember that Bill 51 is the result of a number of very serious meetings between tenants and landlords. They were brought together with a gun to their heads in the sense that there was going to be a significant change in policy and they should get together to try to make the best of it. The builders and the landlords scrambled under Bill 51 to cover their assets as best they could with the housing policy that was forthcoming.

Probably the biggest stimulation for the tenants' leaders to go along with you was their concern over the deterioration of the existing housing stock. Those tenants who can at least afford where they are living now or could afford to pay a bit more are willing to see some changes in the hope that the money is spent where they would like to see it spent and the quality of their present housing will be maintained in some acceptable manner.

In that light your compromise was reached, and from your very carefully chosen words here today, I come back to the fact that Bill 51 basically just covers your assets--you can correct me if I am wrong there--or at least it is an attempt to do that, probably not as well as you would like to see it, but it is an attempt.

Therefore, I go on to say that Bill 51 will not result in a single rental housing unit being constructed. My question arising from that is whether you can give me some ball-park numbers that I hope will not scare the bejabbers out of every tenant in Metro Toronto or any other large urban centre in Ontario. What has to happen to rents in at least a significant portion of the present rental stock, and what has to happen to the rents of new stock that might come on the market, number one, to get the builders a little more interested, but probably more important, to get institutional lenders of one type or another interested again in the housing market?

There could be an interest there because people clearly want to have a fairly broad range of investments. They do not want all their money in office buildings and so on and they do not want it all in Edmonton, all in New York or wherever. There must be some interest in spreading that investment around and trying to cover themselves for unforeseen political and economic situations in the future. What does it do? I repeat: What happens to current rental stock and what happens in rents for new stock to get that institutional interest and large-builder interest back into this market?

Mr. Goldlist: That is a tough one. Let me go to some background. In 1967 we built the largest building, perhaps two buildings, with 988 suites; I will call it 1,000 for round figures. We had the site and we built 1,000 suites. The only way we could build it is that we got a lending institution as a joint venture partner on a 50:50 basis.

We projected certain things, and for the first couple of years it was tough. To build 1,000 suites was a big undertaking. We had a lot of confidence in the future. Things improved and we started doing well. Then, boom, we got hit with the 1975 rent review.

Those buildings need an awful lot of maintenance, but they are excellent buildings. I can tell you right now that the average tenants in those buildings are probably paying no more than 15 or 20 per cent of their income in rent. There are always a few who get in there.

Mr. Griesdorf: Way less than that.

Mr. Goldlist: Less than that. We have some penthouse suites at \$1,600 a month that are worth \$2,500. Then you cover it to above \$750. These people pay \$1,600. They could not get accommodations anywhere compared with that price. We never thought they would be covered under rent review. These people are laughing now. They are not laughing, but you are talking about the \$100,000 income group in those two buildings. How do I overcome this frustration? There is somebody paying \$1,600 a month for accommodations that are currently worth \$2,500, and he is going to get a four per cent increase.

There is no question about it; there are people in need. Violet McIntosh was always calling me. She gave me a cup of tea. On a personal basis we looked after her.

How do you get my lending institution, which subsequently built two more buildings with us, to come to the table again? We have the knowhow. We have a certain amount of investment money, although we do not have that big investment money. How do we get them to the table is the question you are asking. It is a very good question.

Mr. Griesdorf: If I can respond to some of the reaction, I think, Mr. Stevenson, you are looking for some specifics as well.

Mr. Stevenson: We need at least a hint of the answers to those questions to try to figure out where we are going with this legislation.

Mr. Griesdorf: Let me tell you some of the very simple reasons some institutions are not interested in getting into this business. They happen to be banks and insurance companies; it may even be true of trust companies as well, but these are specifically insurance companies and banks.

As soon as the properties in which they had either an ownership or a potential ownership, such as a potential deal to go in and provide the financial backup to build these buildings, as soon as they saw that these buildings were subject to rent review, they saw what happened in some small buildings in which they were already involved. To get any of our economic justifications, as we have, even under Bill 51, we have to go through the rent review process to an administrator, which ultimately may end up in a hearing.

The second the tenants see that institution has an interest in it, they threaten with letters about cancelling their insurance policies or changing the banks where they do their business. The banks and the institutions were very fearful that they were going to lose a lot of their customers only because they had made an investment through their investment portfolios. It was that type of thing. The whole process of confrontation is the thing that turned them away.

On the economics, they will evaluate whether it is worth while to get into. On the public relations end, their people said, "Stay away from anything that is rent-controlled or anything where the tenants are going to start using these tactics about threatening the investment."

You lost a lot of the very valuable people who might otherwise have been, and historically had been, investors in residential properties. They turned to things such as shopping centres and office buildings, where that type of confrontation is not there. You lost the backbone of a lot of the financial people. Once you lose that, you are asking people to go it themselves.



Mr. Stevenson: Has the idea of the Canada bond rate plus one per cent brought you one phone call from anybody with money?

Mr. Griesdorf: People have asked me exactly what it will do. We will say that you still have to have a market for the product you are going to build. Bill 51 on its own will not make this building work. It will give you the framework by which you know how you can ultimately get a return up to that investment, but we say to these people, "You cannot get any more than that." With all those losses they incurred in the past years, they cannot get anything more than that return on their equity. That is the limit.

15:10

In other words, it is goodbye for all the losses they had in the past; all they can do is to get a return on that investment. They can reach that level. It may take five years, but that is the best they can do. A lot of people are saying: "That is not good enough for me. How about even a return on all the money I have been losing?"

Mr. Stevenson: You have not really answered my question, but I appreciate your comments. I understand some of the problems under which you are working.

Mr. Goldlist: I will add to that. I jumped into commercial investment because that is where the road to glory is and I have to do the best for the shareholders and the policyholders, but there is room for apartments. They can change quickly.

If you come up with something so that they realize there is potential growth and they can get a return--they are not going to be greedy; a fair return--they will be back. They still have office buildings half empty here with all the glory of making money in commercial. If you give us the confidence, you will see that they will get back. I agree with what Garry Griesdorf says, but I say, "Give us the confidence and you will see what will happen."

Mr. Davis: I will try to be short. It is my understanding from the minister that when he created the uniqueness, as he says, of getting the land developers and tenants to sit down to talk, the ultimate goal of that group was twofold: to provide some kind of protection for tenants, with which we all agree, and, as the minister has constantly stated, to encourage new development. He has indicated that that is what is going to happen. I would like to try to see whether I can get some answers.

In your paper, Mr. Goldlist, you state the following, "The passage of Bill 51, plus a firm, irrevocable commitment that we are entitled to a fair return for our labour and investment would entice us back into building rental accommodation." As I read that, this is what I see: You are telling this committee that you want Bill 51 passed as it is. We have heard from various developers who have said: "Pass Bill 51 as it is. Do not tinker with it." The minister has told us that. That is condition one.

Condition two is an "irrevocable commitment." Would you like to try to define for me what an irrevocable commitment that would entice you to go back out into the marketplace and build means to you as a developer?

Mr. Goldlist: I do not know how you can do it legally with the government changing and this in here now, or whatever is going to happen.

If we can see a strong feeling from the Legislature, from all parties--New Democrats, Conservatives and Liberals--that it finally has hit home that they do not protect the tenant by eliminating the landlord, if the message comes across that if there are no landlords and no developers you will not have tenants, if we can get that message across, not overlooking the headline, "Landlord gouges tenant," but that the landlords have a place in this community and this industry and they provide a product that is essential for the wellbeing of the tenants--we want to get a message; I do not know how we can get it, but we need a message--I would be out the door next year looking for land and building.

Mr. Davis: To continue for just a moment, "We are entitled to a fair return for our labour and investment." What is a fair return?

Mr. Goldlist: If we could get a return of 12 per cent or 13 per cent on our invested money in cash, which is only one or two points above bond prices, I would be very delighted to build buildings. We would be building tomorrow if I knew that was there. We love the business. We have good people. At one time, years ago, we employed 400 construction people on our staff. We cut that down and down and down. We are just doing the odd little--

Mr. Davis: One could say tongue in cheek that if the tenants and landlords can sit down and come to some agreement, it might be possible for politicians to do the same thing, especially if they believe the ultimate goal is tenant protection and development at the same time. You want some type of guarantee that says not only that we pass Bill 51, but also that we will make some commitment that somewhere around 11.5 per cent to 14 per cent would be a fair return for investors to invest in the market.

Mr. Goldlist: We would get that message.

Mr. Davis: I suggest we will not see any buildings being built in this province for a long time to come. I find it hard to guarantee a government guarantee of investment to any specific sector of the free enterprise system.

Mr. Goldlist: We do not need a government guarantee. We need a commitment that you will not interfere. We do not mind taking four or five per cent. We do not mind breaking even the first year. We are prepared to take a loss in the first year. It is a business.

Mr. Griesdorf: Mr. Davis, perhaps you have answered it yourself. You have taken it out of free enterprise and you have made it a regulated industry. We are trying to say that if you want free enterprise to build, make sure the return is significant, as in the other regulated industries, so they will do something to create the supply you so sorely need.

Mr. Stevenson: Are you getting 12 per cent or 15 per cent now on commercial buildings that are 60 per cent leased?

Mr. Goldlist: I cannot answer that. I do not know. Does that percentage sound too high? I have never asked for a guarantee. We do not want a guarantee, but we do not want to be in the middle before we even get to the break-even point, which is happening with post-1975 buildings. Before some of us get to the break-even point, we are taken under the umbrella of rent controls. Now we have to justify that we are entitled to break even and make a return. This is what we object to.

The Acting Chairman (Mr. Knight): Mr. Griesdorf, you might reconfirm what I thought I heard: the Canada bond plus one would not be sufficient inducement to attract people into the market.

Mr. Griesdorf: Mr. Goldlist was the one who commented on that. For background, in agreeing to the rate that was finally established, initially the committee was dealing with a range rate of anywhere from eight per cent to 12 per cent. The compromise the Rent Review Advisory Committee came up with was 10 per cent on the pre-1985 buildings, I think it was, and on post-1985 buildings it was a three-year moving average of the Canada bond rate plus one.

One of the things we are finding is that builders are not necessarily prepared to build under those rules. If they have a site and they do build, at least they know that is the kind of return they will get as a maximum return. Mr. Goldlist might be saying that if you are looking to get a lot more buildings built, perhaps that return is too low. I do not believe it will create the kind of supply the government would like to create by having that rate. It is probably too low a rate. It was a compromise rate that RRAC submitted and in the spirit of what we presented, we stick by it. To answer the question whether you will get a lot of supply from it, I do not think you will. You will get more supply the higher the return is.

The Acting Chairman: The higher the return, the better--

Mr. Griesdorf: The better the return, the more you get. That is the nature of the business. People seek a profit. It might not be a nice word to a lot of tenants, but that is what motivates the free enterprise system.

The Acting Chairman: Thank you for that clarification.

Our next deputant is Pat Kushko from the Grange Ryerson Tenant Association. There is no prepared brief.

15:20

#### GRANGE RYERSON TENANT ASSOCIATION

Mr. Kushko: Good afternoon, ladies and gentlemen. My name is Patrick Kushko. I am a member of the Grange Ryerson Tenant Association. I am a tenant at 165 Grange Avenue, apartment 314. This is an 87-unit building, one of two; the other is at 77 Ryerson. Each self-contained apartment, called a bachelorette, is approximately 220 square feet, and all units except the superintendent's are identical. I have lived there for approximately 10 years, eight of those years under the ownership of Manufacturers Life Insurance Co. It treated us fairly and approached the rent review process when necessary.

In 1984, our building was sold to a holding company and we have been fighting a conversion to hotel-like usage ever since. Our yearly leases were dropped and it seemed at the time that our landlord was violating our rights. Newly rented apartments are rented by the day, week or month. Rates vary from \$50 a day to \$260 a week..

Although monthly rates continue at the old rate, all of us live in the precarious position of facing some unforeseen loophole or a change in an act that would allow the present owner to evict the rest of us or raise the rents to his hotel-like rates. It converts apartments to hotel-like usage every time someone moves out. We have lost our right to sublet to friends with the loss of our leases. We are still a strong tenants' association with more than 45



members in our building, even though 30 units have already been converted into hotel-like usage.

How long are we expected to appeal to various bodies to stop this injustice to tenants? I came from a rooming house environment and the small apartment I have is really worth fighting for. I challenge anyone to compare one's own self-contained apartment versus a room in a rooming house. However, at the present level, that is all I could afford. I beg the help of this committee to help protect my home and the homes of my fellow renters who are at low-income levels, but not so low as to be subsidized. After all, singles are quite a large section of the population now and the majority are low-income earners.

From the very beginning, we have stood united as a tenants' association, established to block this loss of low-income rental accommodation. We appealed to city hall and we were told that city hall was against this conversion. We approached all our representatives at various levels of government and were reassured that they were against this conversion. We asked our neighbours, the local school, various legal bodies and finally the Residential Tenancy Commission. The RTC ruled in our favour but only in a unit-by-unit situation. It did not seem to have the power to make a complete building determination.

Consequently, even the units for which we have won a ruling are still being rented for hotel-like usage to this day. This is very frustrating for the long-term tenants who are offered no other redress.

Illegal hotel-like accommodation and other illegal situations in the rental housing stock create tenant contempt for the present rental regulations and government in general, widening the gap between tenants and government. I am often asked, "Why bother fighting the landlord, because he is protected by the government?"

Illegal hotel conversion takes away business from real hotels and genuine tourist accommodation; revenues they can ill afford to lose. Conversion gives the impression to tourists that all hotels in Ontario are like this. Standards of fire, guest registration and accommodation are not carefully guarded. Conversion brings unexpected problems to planning departments, residential areas, schools and, especially, long-term tenants. They are involved directly in the conversion. Most of all, it takes much-needed low-income rental housing off the already tight market.

Conversion to hotel-like usage brings problems such as rowdiness from daily parties; strangers in the neighbourhood and building security problems; uncertainty of tenure for long-term tenants; dropping of maintenance standards; tenants being told they do not pay enough; an adversarial situation, bordering on hostility, between tenants and landlords and even other tenants; intimidation tactics by the landlords to get us out; and, worst of all, cockroaches, which are not noticed by the casual guest. These are all symptoms of illegal conversion to hotel-like usage.

In general, there is a lack of care and concern for long-term tenants. Quite a large percentage of the hotel guests are simply tenants who have been unable to obtain reasonable rental accommodation because of the low vacancy rate and may leave the city even after finding a job because their pay is not enough to pay these exorbitant rates. In short, we need provisions in Bill 51 that will allow the building to be returned to the low-income housing it was always meant to be. The proposed legislation would stop further conversion to hotel-like usage and perhaps give back to tenants some of the units lost in

the past few years. I am thankful for this proposed legislation and hope it passes as soon as possible.

We would like Bill 51 to give tenants a better-disciplined system for noncompliance. For example, if a single, one-time fine with a maximum of \$25,000 is all there is to protect tenants, this could be interpreted by landlords almost as a licence fee. Make landlords who are contemptuous of the system pay fines appropriate to the act they commit.

We ask for legislation that is generally adhered to by all and that offers no amnesty or shelter for landlords who have collected large, illegal rents for years, despite full opposition by tenants and past systems. Rents that are allowed to increase because of a large capital expenditure should not be allowed to maintain that increase for ever.

A landlord should not be allowed to re-evaluate rents if some of the rents are illegal. A lack of maintenance standards should have a more serious consequence than merely the withholding of rent increases. This bill should allow a rent review official to make an overall building determination rather than a unit-by-unit judgement. The rent registry should compare illegal rents with allowable rents and return overpayments to the tenants. Chronically depressed rents should not rise if they are depressed because of other illegal rent buildings. Rent increases should match real cost increases and not reward landlords for continual inflated price flips of buildings to show increases in cost on paper only.

In a nutshell, please give us something more than we have, which is not much. It would be easy to say that landlords are against the bill and tenants are also, but we need something. We need leadership; we need wise men to make decisions for the future to ensure all people in Ontario get the best deal for housing. There is no place for speculation in housing. It is a necessity in Canada; in law, it should be a necessity.

Mr. Stevenson: I appreciate your presentation and your concern over the instability and the situation you find yourself living in. I want to ask some questions, not really about the present situation but to get your opinions on how you got there or how the building got to the current situation.

Mr. Kushko: I am sure I missed some points.

15:30

Mr. Stevenson: What is your interpretation of why Manulife sold the building?

Mr. Kushko: What I was told or what I believe, or both?

Mr. Stevenson: Either.

Mr. Kushko: I was told they were selling it because they were only in the building for 10 years. Once a building is 10 years old, they move on. They do not want to be stuck with maintenance bills, etc. They work on a specific length of time. It might have been because they owned the building outright, they had no mortgage and, therefore, could not justify enough rent increases for their investment. This is what I suspect.

Mr. Stevenson: You suspect the latter was the reason for getting out rather than the former.

Mr. Kushko: Yes.

Mr. Stevenson: I suspect you are right.

You made a statement near the end about returning the building to the low-income housing it was intended to be.

Mr. Kushko: Each suite is 220 square feet. This is not luxury accommodation, obviously. It is a little more than room size. There is a self-contained bathroom and a utility area, sort of a kitchen. It is semi-furnished. There is a captain's bed. Drapes and carpets were provided the day we moved in. For better society, it is almost perfect to replace the rooming house situation. It is fairly nice and I will fight tooth and nail to keep it if I can.

Mr. Stevenson: I would like to make a distinction between a fair rent for the small size of the apartment--whatever rent might be considered fair for that size of apartment, which obviously is going to be much lower than a much bigger apartment--and make a distinction between that and what Manulife or others might consider a very low rent for a small apartment.

Mr. Kushko: Fair enough.

Mr. Stevenson: There was a gap there, I would think.

Mr. Kushko: If I may expand on this a little, I believe the last rent review hearing was in 1980 and Manulife reported more than \$100,000 profit from these units. I suppose the new owner did not feel that was sufficient at the time. He has dropped all kinds of services that Manulife carried, including a \$20,000 superintendent's wage, along with landscaping services and a few other odds and ends. He did not feel that was enough and he has converted to the hotel-like usage and is reaping exorbitant profits now.

Are we supposed to guarantee landlords a profit according to the area in which we live? When they come into the system, they generally buy or build a building at X dollars and they expect a certain return. Once that return is in, that should be all that is expected. If they have made a bad deal, it is their problem, not ours.

Mr. Stevenson: If the system had allowed for the tenants at the time of the sale to sit down with Manulife and discuss--I do not know how you would do this without Manulife holding a gun to your head; if there was some way of sitting down and discussing what you might have been willing to pay to keep the former owners, the standards of the building and the situation you obviously had some appreciation for at that time--

Mr. Kushko: Right.

Mr. Stevenson: --relative to what might have happened and, in fact, did happen under a sale, would there have been an interest on behalf of the tenants to try to maintain some sort of situation and maybe accept some unusual rents? By "unusual," I mean more than rent control would have allowed to maintain the situation you had before?

Mr. Kushko: That was expressed to me by many tenants. Many tenants were willing to pay what they deemed at the time the building was originally built--and we have many tenants who are original tenants from the day the building was opened. They said at that time the apartments were approximately



20 per cent above the room rates. This is why they wanted self-contained apartments. They thought it was a good deal at that time, and that was more or less the opening thing.

Nearer the end, a lot of tenants told me that they would still pay 20 per cent above the standard room rents in the area to keep them. We proposed this to the landlord, and he just said, "No way." He was looking for double and more. He purchased these buildings quite reasonably. I understand they were not really on the open market. He got them very cheaply and has essentially turned them into a very lucrative family business downtown.

There are a lot of legitimate hotel owners downtown who have paid their dues and have had to go to extreme lengths to be where they are. Suddenly overnight, without having him really work for his money, we have made this guy a millionaire. The tenants of this province are making him a millionaire.

I do not object to millionaires being made; I just object to speculation on a necessity of life. Housing in Canada is a necessity of life. The cold weather is coming on. For two months of the year, we all fancy we can live under bridges. The rest of the time, forget it. We have to be realistic.

I hope you will see your way clear in that bill to looking after our interests as tenants. I cannot possibly look at all the little avenues and loopholes that could be covered. I trust that the committee members will take it upon themselves to look after the tenants of this province.

Mr. Reville: We have had some other presentations about the cost of refinancing, particularly when speculation was involved. One of the suggestions was that no refinancing cost pass-through be allowed. I assume you agree with that.

Mr. Kushko: Yes, I certainly do.

Mr. Reville: The representative of the government has indicated that the five per cent cost pass-through that would be allowed per year was a tradeoff that gives substantial speculation protection. When coupled with the guideline, it works out to a tradeoff that you should be happy with. Are you happy with that? I take it that you are not.

Mr. Kushko: I am not really happy with that, because you can have more or less paper flips of buildings just to increase their cost. He may take out three or four mortgages, then flip it to somebody else, who will pay an inflated price just to justify face value cost increases so that he can get larger rents. I cannot see that this is really going to help us that much.

Mr. Reville: How do we distinguish between the paper entrepreneur, who is just in the business of making money out of paper, and the legitimate property management outfit that has to refinance or wants to pick up a property?

Mr. Kushko: We are in a free enterprise system. He has the choice of not refinancing.

Mr. Reville: If there were to be a number larger than zero and smaller than five per cent, what would your choice be?

Mr. Kushko: The smallest figure possible, of course.

If there are to be any compromises, I certainly hope they are not on the backs of tenants again. As our society gets more mature, we find more and more people as tenants, and it is not because they want to be irresponsible people and not contribute to society. They just cannot afford any other types of accommodation. Consequently, I think we have to be more conscious.

Government has to play a larger and increasingly more active role in the rental housing situation. If you now examine some of the countries that people have mentioned at this meeting in the past, a lot of them have their own government housing situations for more than just people who cannot afford any housing. Governments have found that speculation in a housing situation in a free market is to the detriment of the tenants. We end up with people living on the streets. I do not know whether you have gone down to Queen Street recently, but there seem to be more and more people there walking the streets.

15:40

Mr. Reville: I did a lot of work with the homeless when I was an alderman and I am very aware of the growing number of homeless. I think this bill is going to create more homeless actually.

Mr. Kushko: I hope not, and this is why I rely on your wisdom either to modify this bill or to make appropriate amendments to it.

Mr. Reville: Thank you, Mr. Chairman.

Mr. Chairman: If there are no other questions, Mr. Kushko, thank you very much for your appearance before the committee. We do appreciate it. Is Robert Herman here? Mr. Herman, will you make yourself comfortable? There is a short paper that Mr. Arnott is distributing now to members.

Thank you, Mr. Herman. Just go ahead.

ROBINWOOD MANAGEMENT CORP. LTD.

Mr. Herman: Ladies and gentlemen of the committee, my name is Robert Herman, and I am the property manager for Robinwood Management in Toronto. I am also a member of the Fair Rental Policy Organization of Ontario. All the buildings we manage are owned by my family and some have been in the family for more than 40 years. I am pleased to add that some of the tenants have been with us for more than 40 years as well. My father's business philosophy was always that the better you look after your tenants, the better they will look after you.

Over the years, there were times when the vacancy rate was high, but never in our buildings because the tenants were happy with the way we looked after them. They did not even mind paying a little extra for the cleaner building, the nicer superintendent or the leaky tap that got fixed the next day. We spent more on the buildings, but we made more profit.

Rent controls changed all that. Now the man next door who does not spend any money on his building is getting a greater return because he spends less, much less. Rent controls have turned the unscrupulous landlord into the better property manager. Going to rent review has not been the answer. The last time I went to rent review, I spent more than \$20,000 in capital improvements on a building with a rent roll of only \$220,000 and got an increase of 4.84 per cent. Forget it.

Ross McClellan, the former Housing critic for the NDP, said at a seminar I attended last fall that rent controls must be working because he did not see a serious deterioration in the quality of the housing stock. He may be a good politician but he would make a lousy building inspector. Do we have to wait as long as New York City to start easing up on rent controls? For the sake of the landlord and the tenant alike, I hope not. The government must come up with a policy that gives the private sector the confidence to invest in the future of Ontario. Thank you.

Mr. Chairman: Thank you, Mr. Herman. That is a brief that is succinct and certainly makes your point very clearly. Are there any questions from members of the committee for Mr. Herman?

Mr. Stevenson: What position are you in right now in your buildings, if you do not mind me asking a few questions? Are you getting any reasonable return at all on the buildings?

Mr. Herman: We are. But over the past 10 years, our profits have been reduced, particularly when you take into account inflated dollars. Even dollar-wise, the profits are actually going down over the years.

Mr. Stevenson: Have you attempted to look into the future to try to figure out the cash flow required to make the necessary capital improvements to maintain the current level of your buildings, and some estimate of what your revenues will be to see whether there is a point in the impending years where your expenses and revenues will meet?

Mr. Herman: Unquestionably.

Mr. Stevenson: Can you give me some estimate of how long that will be?

Mr. Herman: I would not know, because when you go to rent review, the decisions are so arbitrary you cannot predict those kinds of things. At one time, they seemed to be a little more favourable, the way being to amortize things over a shorter period of time. The longer they amortize a capital expense, the less your return. If they amortize things over a long period of time, the time when capital improvements will no longer cover the rent would be very short. This is the way it is going now.

As I say, I went to rent review for a building. I spent \$20,000 and I got an increase of 4.84 per cent. For not doing anything, I would have received four per cent. That means I got a return of 0.84 per cent on a capital expense of \$20,000.

Mr. Stevenson: Have you read Bill 51?

Mr. Herman: I am familiar with some of it. I am a little confused by the difference between Bill 51 and what I hear are a lot of possible amendments to Bill 51, but I think I understand it.

Mr. Stevenson: Let me take your word for the fact you are indeed a good property owner and your tenants are relatively happy living in your apartments, at least partially as a result of the level of care that you take in those buildings. Do you see anything in Bill 51 that gives you much optimism or makes you any happier in what you understand the future will be like with something along the lines of Bill 51, as opposed to what you have lived under in the last few years?



Mr. Herman: When the original agreement came out of the Rent Review Advisory Committee, I thought it was very reasonable. That is the way I think Bill 51 should be adopted.

Mr. Stevenson: Reasonable in the sense that it will supposedly cover yourself and your existing properties? Is it reasonable enough that you might want to invest in more?

Mr. Herman: Yes. The way I understand the current bill may be passed, the owner is already going to get three per cent operating cost. His operating costs will be guaranteed, so his capital improvements will be on top of that. I would have a better return. Consequently, I would make capital improvements. The way it is now, I am not going to make any capital improvements. That was the last building we went for, and I will not make any more capital improvements unless they are really necessary.

A lot of the things we do are not particularly necessary. People do not need new carpets in the hallways; they do not need new landscaping. Those are the types of things I like to do. We have always taken pride in the way we keep our buildings. I lived in my buildings for several years until I could afford a house. I would only live in a building that I would keep as my home. Those are not things I would necessarily do. However, if I knew I would get a reasonable return, I would invest in my building and other buildings as well.

Mr. Jackson: Is there anything specific in the bill that you would find difficult to cope with? While I am stating that, is there anything specific that you consider is weighted too heavily in favour of the tenant, which might give you some difficulty?

15:50

Mr. Herman: It all depends on what you mean by the bill. The original bill, the agreement of the Rent Review Advisory Committee, is reasonable and definitely a step in the right direction. It lets landlords know where they are going, rewards the guy who does work and gives a much fairer increase according to the cost index.

Basically, I would say I am very happy with the original agreement struck by the members of some very powerful tenants' organizations and some very powerful landlords. Smaller landlords were represented as well.

Mr. Jackson: Okay. That answers my question.

Mr. Chairman: Thank you very much, Mr. Herman, for appearing before the committee.

Is Des Milinkovic here this afternoon? Am I pronouncing that correctly?

Mr. Milinkovic: Almost, sir.

Mr. Chairman: Members have copies of the brief now; so I would be pleased if you would just go ahead.

ZELJKO DES MILINKOVIC

Mr. Milinkovic: Good afternoon. My name is Des Milinkovic. I am a landlord and a member of both the Multiple Dwelling Standards Association and the Fair Rental Policy Organization of Ontario. I felt it was important to

come here today to give my comments about Bill 51 and how it affects me as a landlord.

I consider myself a small landlord. I came to Canada 13 years ago with great hopes to live in a democratic society and to own a business of my own.

I quit my job and started in the rental housing business seven years ago when my parents immigrated to this country. They wanted to put all their savings into an apartment building. We purchased a 60-unit apartment building at that time. It was in poor condition. I spent five years fixing it up and spent lots of money on capital expenditures. I went through three rent reviews, and one appeal to increase the rents. The building now has an excellent reputation in the neighbourhood and provides a moderate income for my parents.

In 1981, I also purchased a smaller 33-unit apartment building on my own with my own money. It was also in poor condition and neglected and needed lots of capital expenditures. After three rent reviews and one appeal, I was not able to raise the rents enough. I finally ended up selling the building at a financial loss last fall.

I lost \$20,000 and four years of hard work. This loss does not include the interest I would have got on my investment if I had just left my money in the bank for four years. It also does not include my loss of income for four years. I never paid myself any salary or management fee. My wife and I lived on her salary.

I am now considering the purchase of another apartment building. However, the housing business is not like other businesses, especially with some of the proposals in Bill 51 and the current political climate.

My future as a landlord depends on having a more stable and reasonable set of regulations and policies for residential housing. Why should I invest my money and years of my life in owning an apartment building? There should be an incentive for people such as me to stay in the apartment business, but frankly sometimes I think I would be better off owning a hardware store or commercial property.

Bill 51 does not improve the low rate of return on investment for pre-1976 buildings. Both my apartment buildings were older, built 20 to 30 years ago. As I have stated, I am considering purchasing another pre-1976 apartment building. What is my incentive? For the same money, I can get better return if I purchase a small shopping plaza or a newer apartment building.

For a small investor such as me, it is very important that Bill 51 include financial loss as valid grounds for a rent increase. The small apartment building that I sold at a loss had very low rents. In order to make all the improvements that were needed to fix up the building, I had to stop paying my property taxes and borrowed money from my family. I could not borrow money from the bank because of the low rental income and my poor financial situation. Even after three rent reviews, the rent increases were not enough to allow me to overcome the financial loss. I was caught in catch 22. I had to put myself into a financial loss to make improvements to get a rent increase; but a rent increase was the only way I could get more money to do the capital expenditures.

It is very important that financial loss be included as grounds for allowing a rent increase. This will be especially important if the proposed

Residential Rental Standards Board is established and the landlords are faced with expensive repairs to avoid violations.

There is no incentive for me to own an apartment building if tenants must be consulted about maintenance costs and capital expenditures. In my seven years of experience, tenants do not have a long-term commitment to their rented apartments. I have had many tenants who stayed only one or two years, and some did not even give the required 60 days' notice of termination.

At my several rent review hearings, many tenants voiced strong objections to the capital expenditures, operating expenses and other costs of improving the building because they did not want the rents to go up. In the end, they may have appreciated the improved security that the entrance vestibule and intercom provided, but at the hearing everybody was complaining about unnecessary costs.

Tenants, like all good consumers, want reasonable quality at the lowest possible rent. Apartments are like leased cars; after a few years, they are traded in. I think the proposal in Bill 51 to consult the tenants about maintenance and capital expenditures is a disincentive for property owners. It is my property. It is my investment, and I have a long-term interest in improving and maintaining good property. I should be the one to decide what needs to be done and when. Otherwise, I am at the mercy of whatever group of tenants happens to live in my building from year to year.

I do not object to the concept of a rent registry, but I would definitely like to see an air of reasonableness prevail. The current adversarial nature of most landlord-tenant problems must be removed. I have not deserved the nasty image that stereotypes landlords. As the landlord, I need a reasonable amount of time to comply with all the new requirements of the rent registry. If there are any problems or discrepancies, I would like a reasonable opportunity to remedy the problem or a reasonable chance to prove my case. Landlords should not be immediately penalized if the deadline for compliance is unreasonable.

16:00

Another problem with Bill 51 is the proposal that I be held responsible for an illegal rent increase or the activities of previous owners. As I mentioned, I am thinking about purchasing a new building. The closing date of the sale will be October 31, 1986. The current owners may not have any interest in complying fully with the new rent registry regulations or submitting the necessary information correctly. I cannot be responsible for their activities retroactively; I am willing to take full responsibility only from my date of purchase. In establishing this rent registry, the regulations should be forward-oriented and not a witchhunt into the past years.

I disagree with the concept that the landlord has to reduce his rents because of a reduction in financing costs. The way Bill 51 treats this issue, I would have two options. I can lock myself into a long-term, expensive mortgage--for example, 10 years at 15 per cent--in order to maintain my rental income and therefore maintain my property value. Or I can choose a short-term, cheaper mortgage--for example, one year at 9.5 per cent--and face a lot of paperwork with the rent registry notifications, a loss of rental income and a reduction in my property value. It does not make sense from a business point of view to choose an expensive mortgage, but Bill 51 forces me to do so. It makes better sense to reduce my debt service, but where is the incentive?



In summary, I am interested and willing to pursue a livelihood as a landlord of an older apartment building, but I now face a choice: I can purchase an apartment building or a small shopping plaza. Unless Bill 51 is amended, there is not much incentive for me to stay in residential housing.

Mr. Chairman: Thank you for your presentation. Are there any questions for Mr. Milinkovic? If not, Mr. Milinkovic, thank you very much for taking the time and effort to come before the committee.

Mr. Milinkovic: Thank you.

Mr. Chairman: Is Mr. Irving Garten here? Mr. Garten, would you have a seat and make yourself at home as much as you can in a Legislative Assembly committee room.

Mr. Garten: Thank you.

Mr. Chairman: Are you comfortable? We appreciate that you have come here today and look forward to hearing from you.

Mr. Garten: I appreciate that you are going to listen to me.

Mr. Chairman: We shall do that. Do you have a written presentation?

Mr. Garten: No, I do not. I am sorry. It means you must listen to me carefully.

Mr. Chairman: That is right. We will try.

#### IRVING GARTEN

Mr. Garten: I would like to say in starting that I am a small landlord. A lot of the problems the gentleman before me mentioned to you really do happen, and it hurts.

My name is Irving Garten. I am a small landlord and a builder. I have built a number of residential units in Ontario over the past 14 years. I am a supporter of the Fair Rental Policy Organization.

I would like to say that the city of Toronto is one of the most beautiful, slum-free cities in the world. I would not like to see it destroyed through rent control.

I have given up building rental units in Toronto. Other builders have done the same. For years, tenant organizations have argued that private developers are not building rental units because of high mortgage rates. The mortgage rates now are at an eight-year low; still, very few private developers now even contemplate building residential rental units. I have lost faith in the government of Ontario and its policies.

Building has a great deal of pressure, both emotional and financial. As an example, four years ago I invested all my time and energy in completely restoring a vacant, dilapidated site into eight beautiful residential units. It took me more than a year. I worked six and a half days a week. I invested close to \$400,000 in renovations. I did so because there were no controls on new buildings in Ontario.

On completion, I found I could not obtain the rents I had anticipated

because of a glut in rental condominiums on the market at the time. To obtain badly needed cash flow and prevent bankruptcy, I gave tenants below-market rentals with three-year leases, hoping to make up the shortfall at the end of that period. These leases came due approximately October 1985, at which time the tenants agreed to a \$200-a-month increase, realizing that the rentals for the past three years were well below market levels. At that time, I arranged a new, one-year mortgage based on income and expenses.

If I understand it correctly, the new legislation is proposing that my rents should be rolled back to August 1985 levels on these types of units. If that happens, I will be forced to give back about \$10,000 as a bonus to my tenants. As well, when my mortgage renewal date comes up, I will only be able to obtain a mortgage of approximately \$50,000 less than the previous one, based on the reduced income on this property. Funny, eh? I will then be forced to put out \$50,000 of my own money, a huge sum which I do not have, towards keeping the mortgage at the same level.

The building, which was at break-even point three years ago, will now lose me a minimum of \$10,000 a year in badly needed income and, further, may push me towards financial ruin. This is a very real situation. This is how this government treats people who invest their time and energy in building residential units.

All the short-term schemes to build rental units will not encourage me to build residential units again. I have lost my faith in the government and its policy.

Furthermore, a tenants' registry will force thousands of illegal and basement apartments to be registered. Building codes will have to be enforced on these units. There will be thousands--and I mean thousands--thrown out into the streets to find the two apartments in a thousand that now are available in Toronto.

The city cannot just waive building codes after learning of all the illegal apartments. To do so would risk injury or death, as I have seen in Parkdale, where fire and building codes were unenforced. To renovate a building containing illegal apartments usually means emptying not just a couple of suites--the three, four or five that are illegal--but the whole building. It is a massive undertaking. This again would increase by huge proportions the numbers of tenants to be evicted.

As well, the owners of small apartments or rental houses with building violations would have to spend massive amounts of time and money with vacant buildings under renovation and face bankruptcy during the middle of their projects. I have seen this happen. A friend of mine bought a small building with four units six years ago. The fire department informed him that two units were illegal because they had no fire exits, stairwells or balconies. He had to restore the building back to two units and gave the other four tenants their notices. After obtaining permits and evictions, the building cost him one year of lost income to put it back to code. His mortgage payments lapsed, his renovation costs soared--as did his depression--and he soon lost the property to foreclosure.

It seems the tighter the rent control legislation in favour of tenants, the lower the vacancy rate drops in a directly proportionate amount. As well, controls reduce the incentive for landlords to constantly upgrade their buildings for their tenants. This leads to slums.

16:10

Do you want a horror story? I will throw you one fast. I rented a house I owned in Mimico to a gentleman who lived there for three months. He then sublet the house to another tenant without my knowledge and left. The new tenant had very little money, not even enough to pay the hydro bills. She took to baby-sitting the neighbourhood dogs for a small fee. The dogs defecated throughout the house. The hydro was shut off for lack of payment. The furnace then shut off, and the furnace and all the hot water pipes cracked. Water poured out of the pipes, filling the entire house. The tenant left the house. Being January, the water froze and when I walked into the house there was a vast sea of ice and all the rooms were dotted with doggy poo. Repairs cost \$45,000.

I now will deal with the private house that contains rental units. Existing tax laws state that when a home owner sells a principal residence with apartments in it, he or she does not receive a full, complete tax-free capital gain on his or her property but must pay a proportionate amount of taxes on the area that is used for rental. This is a little-known fact, but it is a serious tax omission. At market rents, renting an apartment in a principal residence is questionably worth while. At below-market rents, it is unquestionably not worth while.

I met a man yesterday who told me he lives in a duplex. The apartment he rents out is under rent control. The tenant who is there is paying far less than the market rent for the unit. Realizing the implications of the tax laws, this gentleman told me yesterday he will be evicting his tenant and using the whole house as his principal residence. More and more people in the hundreds and thousands of triplexes and duplexes in private houses in this city now are starting on a program to return their homes to private homes. This will lead to a further strain on rental accommodation in this city and in this province. I am sorry to tell you gentlemen that it makes no economic sense to rent out a residential unit in one's house while rent control legislation exists.

With regard to a rent registry, if a rent registry is introduced, the tenants will see this as their final shot at landlords. There will be massive appeals of rents, whether rightly or wrongly. These appeals will substantially prohibit sales of rental units in Ontario for two to three years, the proposed appeal period. Buyers will not know the correct incomes because of the cloud placed on properties with regard to rents being appealed. They will not buy buildings under appeal. Understandably, mortgage companies will be leery of advancing funds on these types of properties, both to new purchasers and to existing owners. This will cause huge chaos in the rental housing industry for any property owner, large or small, who rents out apartment units as well as to the financial banking systems that underwrite these types of loans. Is this how the government plans to stimulate rental income property in Ontario?

With regard to illegal rents, we all know there are thousands of them kicking around in the city. We all know that buildings have been bought five or six times over the past 10 or 12 years. People have renovated them a bit. People have charged market rents on some of them. They have been rented and rerented and sold. Next year, the people who now own them may walk into legislation under which their tenants may ask for rent rolls and cheques, and they may end up giving back tens of thousands of dollars to tenants. They will not be able to carry their mortgages afterwards because the rents will be reduced. They may end up having to walk away from their property. These are normal, everyday people. This is the type of legislation which, if passed, tears apart families. It is very harsh punishment for investing all of one's savings into the dream of owning a part of Canada's future.



All of these proposed legislations will force a flood of tenant evictions, something I am sure the government would not like to see. It will cause extreme hardship for many of Ontario's small and large landlords. Toronto, in particular, will soon find itself with large, widespread slums. I have seen them in New York. It is unbelievable. Historic buildings in Toronto will be vacant one block after another. You think it will stop on the next block, but the next block is the same and the next one and the next one. You cannot walk anywhere near those slums or get anywhere close to them after eight o'clock, no sirree. You do not even try.

Toronto will find itself with large, widespread slums, something the city has no experience handling. I have seen it. It takes only two or three years of negligence to create a slum. It takes two or three decades of extremely hard work to alleviate them. This affects the quality of everybody's life--home owners, tenants, landlords and tourists who come to see Toronto as a safe, slum-free city. This Pandora's box called rent control must be shut for the good of this province, and it should be shut now.

Mr. Chairman: Thank you, Mr. Garten. How small a landlord are you? How many units do you have?

Mr. Garten: I now have about 100 units. I have had more and I have had less.

Mr. Jackson: I have a question of Mr. Church. Mr. Garten introduced some interesting and, in one or two cases, some new concepts to the committee. I wonder whether Mr. Church could comment on the notion that all the small basement or previously unreported apartments that exist in the city of Toronto, which he referred to, would then come under rent review and would therefore be subject to the filing of a registry? I was intrigued by the imagery Mr. Garten brought forward.

Mr. Church: Without for a moment endorsing the imagery, which is a personal opinion, yes, those units are now under rent review and they are compelled to set rents according to the Residential Tenancies Act. Under Bill 51, they will continue to be under rent review. The mechanisms in place for them are a little more generous under Bill 51. If they have incurred the costs, some of the costs Mr. Garten referred to being rolled back will not be rolled back under Bill 51. Some of them will be, but some of them will not.

There is a tendency among some people to rent out units which we all know are illegal. Frankly, it is an important part of the stock and it presents a quandary for anyone in both levels of government to find a way to deal with it .

Mr. Jackson: Is the bill specifically getting into that area of those units which are of legal, nonconforming use?

16:20

Mr. Church: No, sir. They are covered by rent review now and will continue to be covered. Unless they are larger buildings, they will not be required for mandatory registration yet. Basically, the larger buildings will be.

Mr. Jackson: So the kind of unit our deputant referred to at one point in his presentation, the basement in a single-family home, which is legal nonconforming use, will not be subject to a rent registry?

Mr. Church: It is subject to the rent registry. It will not be mandatory for them to register in the rent registry yet. It is anticipated that once we develop the administrative capacity which, frankly, will be enormous--

Mr. Jackson: You are getting 180 new employees.

Mr. Church: I can assure you with that number we will not be able to register 313,000 landlords, 300,000 of which will shoot us when we show up at the door.

Mr. Jackson: Assuming you do that two or three years down the road, what happens then? The city will be monitoring a maintenance board--

Mr. Church: Frankly, that question scares the devil out of me, but I am convinced the answer does not lie in this bill.

Mr. Jackson: I hope you as a civil servant appreciate that we are setting in motion the framework that will create, resolve or compound the problem. As legislators, we must responsibly address the implications of those actions in this bill. We are laying the groundwork for registering all legal nonconforming uses in a potential registry some time in the future when you and your staff advise the ministry you are capable of doing it.

Mr. Church: In fairness, it is not the legal nonconforming uses that have been of concern; it is the illegal nonconforming uses to which Mr. Gatten was referring. The process of registration will make their discovery more likely and the current violation of the law more likely to be enforced. Frankly, many of the municipalities in Ontario are ignoring the requirements until there is a complaint. Whether complaints would be more or less likely is speculative, but you are right that the tendency to discover them will be higher.

Mr. Jackson: The deputant's hypothesis is that at that point the city gets into the act, and the city is going to say, "We want your unit to conform for safety reasons and whatever." The tenant is going to be hurt by that, not the landlord. The landlord is going to say, "I will either stop doing what I have been doing or I am going to conform, spend a pile of money, if possible, and that will be reflected in the rent." The loser in that scenario will be the tenant.

Mr. Church: That is so, if that happens as a result of a greater level of awareness. But our general feeling--and it is an awkward area--has been that most of the city administrations are well aware of the existence of these units, and until there are specific offences called to their attention, they are not actively trying to enforce these single-family bylaws.

Mr. Jackson: This is my final question. I know I am supposed to be talking to the deputant and not to Mr. Church, but I am sure he would have liked to raise these questions with the government today if he could.

We referred to the Association of Municipalities of Ontario last week and the Residential Rental Standards Board. It seems to be an ethereal concept at the moment until we sit down with AMO and iron it out. Are you having discussions with AMO in this very delicate area of illegal or legal nonconforming use?

Mr. Church: Not on this subject specifically. From time to time, the issue of bachelorettes and other forms of illegal nonconforming use has been

raised, but there are no discussions with AMO on the maintenance board now, not past the original commitment to consult while the Rent Review Advisory Committee continues to develop its proposal. As soon as we have a firm proposal, we will begin those consultations.

Mr. Jackson: I have no further questions except to thank the deputant for raising some of these sensitive areas. I am afraid he may not go away with any comfort, but anyway he has a handle on what we are about to do in that area. Thank you for your presentation.

Mr. Reville: This is supplementary to Mr. Jackson's line of questioning. I want to be sure we have this straight. I am glad you corrected the terminology. Legal nonconforming use may or may not be a problem. We are talking about the Ontario Building Code, zoning bylaws and fire, health and safety legislation that may already render a unit illegal. The registry is another way to pick that up, but they could be picked up any day now, yesterday or tomorrow or today, and then the municipality has the problem of what to do about it.

Mr. Church: I suppose this is a delicate thing to say, but municipalities are turning a blind eye to a large number of illegal units. Not speaking officially but personally as someone who knows about housing, it is a good thing they are. However, that is a very difficult thing to say in the face of also being responsible for the administration of some of our laws.

Mr. Reville: Is it not also correct that another division in your ministry is trying to look at the confusion between different codes and standards and to rationalize it so we will not have such a hornet's nest?

Mr. Church: I wish it were another division; unfortunately, it is one of my responsibilities.

Mr. Reville: You had better hurry up, eh?

Mr. Church: Yes, sir.

Mr. Reville: Okay.

Mr. Church: You are quite right. There is no question that the propensity to discover illegal uses is there now. It is not being done on a very large scale for reasons of practicality, but if there are safety hazards, particularly violations of the fire code and maintenance bylaws, then we will lose stock. We hope we will not do it artificially. We hope it will where there are safety requirements.

Mr. Reville: Can you tell me whether you see the province as trying to develop some policy to deal with this problem so that if, for instance, the defect in a property, that which makes it illegal, is the absence of something such as a parking space or an inch of ceiling height, you can say, "We are not worried about that," but if it is a really scuzzy operation, then you are?

Mr. Church: Absolutely. I do not think any blind eyes are being turned to any scuzzy operations. I would be defaming the fire inspectors in the cities here if I said that. Our general view is that where there are hazardous situations, there seems to be pretty good enforcement. To wit, we do not have a very high level of fire death in most situations.

Mr. Reville: Say you have a short guy living in a building that does not meet the Ontario Building Code height.



Mr. Church: Proper window surface or something.

Mr. Reville: However, it really has a reasonable height for that short guy unless he should grow.

Mr. Chairman: After a certain point, we do not. Carry on, Mr. Reville; I know what you are getting at.

Mr. Reville: I think your riposte is a good place for me to stop. The chairman is living in an apartment that is too tall for him, and something should be done about it.

Mr. Davis: I would like to ask Mr. Church a supplementary and then I would like to ask the deputant a question.

One of the things I have noticed in my brief time, as Mr. Jackson has pointed out, is that often we put into motion pieces of legislation and we have a fuzzy idea of what is going to happen six or seven years down the road, maybe even six months down the road.

I want to clarify something, if I can. I think of the large numbers of various ethnic communities, for example, that still maintain the extended family concepts within their culture. Someone purchases a home and builds a small apartment downstairs for parents or children and may charge them a minimal rent. Do I hear you saying this process could move to a point where that individual, even though he is contravening certain bylaws now--even if, let us say, it is rented to someone who is not a family member--would have to pay back rents or could perhaps lose his home?

Mr. Church: That probably overstates the possibilities for that form of housing. As the law stands, if they have raised rents dramatically in those circumstances, they are breaking the law and they are likely to be discovered by their tenants. The rent registry makes it likelier that they will be. In the case of single or dual units, it is very marginally more likely, because they are not going to register early.

If they are charging illegal rents but their tenants are happy and they keep their heads down, it is going to be several years before we find them. In that length of time, if they have been charging extensive illegal rents, a tenant is going to bring them before the system anyway. Given that we are talking about one or two units and invariably about relatively low rents in most circumstances, because there is a two-year limitation on the payback required, unless they duck past the end of their registration date, which is not the case now, the probability of any rollback being anything more than a major inconvenience is slim.

16:30

In the areas we were talking about yesterday, that is not the case, but in the kinds of homes Mr. Garten is referring to, I think we could say with some confidence that the probability the registry will result in people losing their homes is extremely slight. I am talking here about single-family homes.

Mr. Davis: Yes. Can I go one step further? Can I put words in your mouth and say you would guarantee or state very definitively that no person would lose his home?

Mr. Church: I have been a bureaucrat for 15 years.

Mr. Jackson: And you would like to be for another 15.

Mr. Davis: In your opinion.

Mr. Church: I am not sure.

Mr. Davis: You do not have to answer the question. I think you answered it.

Mr. Church: Actually, I would like to take a shot at it. I think we could say with certainty that except in the most extraordinary case of unjustifiable rent increases, there could not conceivably be a debt of sufficient size in a one-unit basement apartment in a house to cause that kind of enormous adjustment. I think I would come pretty close to a guarantee on that, but I do want to give myself the small out that it is conceivable somebody has jacked up rents a staggering amount, for some reason has an intimidated tenant and indeed might face a several thousand dollar liability that could be enough to trigger a change.

Mr. Davis: Now to Mr. Garten. Did I understand you to say in your presentation that if Bill 51 is enacted, and I am talking about the illegal rent section, there is a possibility that you may find yourself in a position of insolvency?

Mr. Garten: Which section of Bill 51 are you referring to when you talk about illegal rents? Which exact clause or phrase are you referring to?

Mr. Davis: There is a section, as I understand illegal rents, where people make the corner back--

Mr. Garten: Illegal apartments or illegal rents? I do not understand. Can you explain it to me?

Mr. Chairman: I think, Mr. Davis, you are confusing two issues: the illegal nonconforming users versus the illegal rents set out here.

Mr. Davis: Perhaps Mr. Church can clarify it. I understood yesterday there could be people charging illegal rents.

Mr. Church: Yes.

Mr. Davis: And there are.

Mr. Church: There are.

Mr. Davis: When those are rolled back, I understood you to say there could be a large number of landlords in Ontario who could become insolvent because of it?

Mr. Church: Yes, that is correct.

Mr. Davis: Your suggestion, Mr. Garten, was that you could be one of those people?

Mr. Garten: Not necessarily. I know quite a few people.

Mr. Davis: But you know quite a few.

Mr. Garten: Yes, I know quite a few people who are in that position through no fault of their own, just for buying buildings that they themselves live in and rent out four or five suites. You are talking about one-unit basement apartments. I know people who have three or four suites in their units. They have a fiveplex that they live in. If they have to give back \$5,000 or \$6,000 per tenant, they are out of business. They go broke. They lose it. It is gone.

There are a lot of people with buildings such as that. They just bought normally; a normal person came and bought a house. It has been fixed up and rented. It has been this and that. The rents went up. Five or six tenants take the owner to court and get the records, and all the rents are rolled back from \$600 to \$300. The landlord has to give back to the tenants maybe \$10,000 out of his own pocket. Then, when he goes to get a mortgage, where he had a mortgage for half a million dollars, he may be able to get only \$400,000 tomorrow because he has \$10,000 less rent. Where is the other \$100,000 in mortgaging to come from? It has to come out of the owner's pocket. If he does not have it, what does he do? You have this in hundreds of buildings across the city.

I renovated a lot of the buildings that were illegal bachelorette apartments in the 1970s. I bought them all from the trust companies and made them back into apartments. I put good tenants in them. Those units in south Parkdale were full of the biggest criminals in town. I worked with the local alderman, and we helped keep the area from turning into a slum. It was very close to it, as close as you would find in the city.

I am aware of a lot of these things. I am very much aware of what is going on in the city. I am aware there are a lot of problems with apartments that now fall into this category of completely illegal apartments. When you register them, it does not take anybody too much time to look at the building and say: "This building has 22 units. I have 29 or 30 applications here for rental apartments. Where are the other six or seven? You had better send somebody out there to make sure that they observe the building codes, that there are stairwells, exits, fire alarms and proper room sizes."

When you start to send somebody out there, who says, "These six units are illegal; change them," you have to change them. I have seen this happen. To change them, you have to throw out all 30 tenants, because you cannot put a stairwell in the middle of this. You have to put a stairwell in another apartment or you have to throw out that apartment and change the whole layout of it. You have to put out 30 tenants to change these five or six lousy, illegal apartments. There are thousands of them in the city.

That is what is going to happen, I am afraid to tell you. What are you going to do with the thousands and thousands of tenants who will very soon be on the streets looking for places to live? I have seen this in Parkdale. I worked there. I did a lot of good things there. I like to think I changed the area around.

Is there anything else you would like to know?

Mr. Davis: Fine. Thank you. That helps me quite a bit.

Mr. Chairman: Mr. Garten, thank you very much. I can tell that you have stimulated some interest among committee members on the problems you raised.



Our last presentation for the afternoon is from Dave McDonald. Welcome to the committee. We are getting weary, but not so weary that we will not pay close attention to your presentation.

#### GRANGE RYERSON TENANT ASSOCIATION

Mr. McDonald: My name is David McDonald. I have been a tenant at 77 Ryerson Avenue in the city of Toronto for the past seven years. I am a founding member of and current spokesperson for the Grange Ryerson Tenant Association, which is constituted by the member tenants of two similar buildings--you might call them sister buildings--located at 77 Ryerson Avenue and 165 Grange Avenue in downtown Toronto.

This afternoon it is my intention to address my remarks to the committee examining Bill 51 on a problem faced by many tenants in Ontario, namely, the problem of the loss of rental residential property through the conversion of that property to apartment hotels.

For the past two years, the Grange Ryerson Tenant Association has been fighting the ongoing conversion of our two buildings to apartment hotels. In that time, we have seen the loss of approximately 40 per cent of all the apartment units--and these are all bachelor apartment units--to hotel-like accommodation. Apartments are being converted on the basis of attrition to what, to all appearances, are hotel rooms renting for at least four times what is being charged for ordinary bachelor apartments in these buildings.

Our tenant association has vigorously opposed this conversion and continues to oppose it. I sincerely believe that we have pursued all the remedies available to us to try to stop further conversions and to try to restore these lost apartment units to the rental housing stock of Toronto. Despite all our efforts, so far we have not been successful.

It has been our view as a tenant association that the owners of these two buildings, Sandemco Holdings and Gardenia Investments, have undertaken the conversion to apartment hotels solely to get around rent review and rent controls--in other words, to avoid the whole rent review process. Despite all our efforts so far, all the support we have received and the legitimacy of our claims, we have not really been successful in achieving our goals of stopping further conversions and returning these converted units to their former and rightful status as rental accommodation.

16:40

Now, however, I am pleased to say that, thanks to the present government of Ontario and the Minister of Housing (Mr. Curling), there may be a glimmer of light at the end of the tunnel. The first reason for hope is the recent passage by the Ontario Legislature of Bill 11, which we are advised should effectively stop any further conversions, at least for the next couple of years. As the members of the committee undoubtedly know, Bill 11 puts a stop to all types of conversion of rental residential property to other uses, including apartment-hotels. We are most grateful for that.

Bill 11 does not do anything to help us restore the lost apartments to their previous status. I hope that is where Bill 51 comes in to play. Bill 51, as proposed, has some provisions that may be helpful in restoring the lost units. In the past, under the Residential Tenancies Act, our efforts have been hindered by the difficulty of bringing the owner of our buildings before rent review. The only person who was legally entitled to initiate an illegal rent application was the tenant who was being charged an illegal rent.

In our situation, this posed great difficulty because it proved almost impossible to interest the very short-term tenants living in the hotel-like units in making an illegal rent application. This was due in part to the very brief nature of their tenancy. As well, most of these short-term tenants were visitors from outside the province. The great majority of them just did not want to get involved. Additionally, the landlord made every effort to block our communication with the short-term tenants, effectively preventing us from advising them that the landlord might be charging more rent than was allowed and that they could recover the money.

The owner of our buildings has repeatedly claimed that his converted units were exempt from rent review under section 4 of the Residential Tenancies Act, which states in part, "This act does not apply to...transient living accommodation provided in a hotel, motel, inn, tourist home, hostel or"--and from our point of view this is the most important phrase--"other similar accommodation."

In its wisdom, the present government has seen fit to remove the phrase "other similar accommodation" in proposing Bill 51. We hope this will close one loophole found in the Residential Tenancies Act that was, in part at least, allowing the owner of our buildings to continue his conversion of apartments to hotel-like units. I commend this aspect of Bill 51.

None the less, there is one point I would like to raise regarding clause 4(1)(a). A new category, suite-hotel, has been added to this section. As far as I can see, no definition has been given in the act to suite-hotel. I believe this new term needs to be defined in the act and I hope the committee will take note of this.

Perhaps even more important in dealing with our particular problem is subsection 13(3) of Bill 51, which reads in part:

"The minister, on the application of a landlord or a tenant, or on the minister's own motion, may make a order determining,

"(a) whether this act applies to a particular rental unit or residential complex."

In terms of our situation, this means the tenants of our buildings are no longer solely dependent on the tenant living in the unit where an illegal rent is being charged in order to initiate an application to determine whether the unit falls under the act. Any tenant living in the residential complex, an association of tenants or the minister on his own initiative can make such an application. We are no longer solely reliant on the short-term tenant to get the matter before rent review. That should prove a very helpful aspect of Bill 51. I commend the Ontario government for including this provision in the proposed legislation.

I have one brief comment here. It seems to make sense to me at least that there should be a presumption applying to all landlords to come under rent review until there is a specific order removing them from rent review. It should not have to be proven by the tenants unit by unit that a building comes under rent review or that an individual unit comes under rent review. The onus should be on the landlord-owner to prove he has a valid exemption. I do not see this in Bill 51.

To return again within the purview of Bill 51 to the question of conversions to apartment-hotels. This whole area, although relatively recent,

is a very important one. I hope the committee will forgive me for dwelling on it at such length, but I sincerely believe it is an extremely important aspect of what is happening to rental housing in Ontario, especially in terms of the loss of affordable rental housing. Every apartment unit that is lost by being converted to hotel-like accommodation is one less apartment available to the tenants and would-be tenants of Ontario. It may be fine for the tourist industry, but that is not essentially what we are concerned with here. Here we are concerned with rental housing.

At a time when the vacancy rate for rental housing is at its lowest ever, can we really afford as a society to lose even a single unit? It is extremely important, not only that we stop the constant drain on our rental housing stock through various conversion schemes such as conversion to apartment-hotels, but also that we regain those units which have been lost. Every reasonable effort should be made to restore to their proper status as rental residential property all those units which have been illegally converted. By illegally converted, I mean any scheme devised to circumvent rent control such as the conversion to apartment-hotels.

Do we need more hotel rooms for tourists or do we need more rental housing? I do not really know whether we need more hotel rooms. It does not really concern me within this context. Here we are concerned with rental housing, not the value to society of more hotel rooms, cheaper or otherwise.

Some mechanism must be put in place within the legislation to regain these lost units. These units have not been lost through the mere neglect of landlords or by error or miscalculation, but by the deliberate and wilful attempt on the part of landlords to profit by the circumvention of rent review and rent controls at the cost of the homes of those who often need them the most. This situation is unjust, and needs to be corrected.

16:50

If there is a possibility of a solution in Bill 51, perhaps it has to come from the proposed rent registry. However, if the Ministry of Housing were to take the level of responsibility in the administration of rent review legislation that it should, I believe it would establish a rent registry which would not sit back, knowing full well there is an illegal rent, and leave the burden of challenging that illegal rent on the tenant alone.

It is not even clear from Bill 51 whether, under the proposed rent registry, the tenant who is being charged an illegal rent will be fully informed of that fact by the ministry or whether the tenant will be notified of the fact that he can challenge that illegal rent.

It seems only reasonable and fair that the responsibility for searching out illegal rents and prosecuting for them should rest squarely on the shoulders of the minister, not the tenant. I do not find that in Bill 51.

To put the icing on the cake, so to speak, the tenant, who has been charged illegal rents for God knows how long and who is required to pursue his own remedy, is then asked to pay for an amnesty to the very landlords who have been ripping him off all along. That is just too much to take.

Why is it necessary that the carrot offered to the landlord to get him into the rent registry has to come from the pockets of tenants? We are not talking a few bucks, but tens of millions of dollars. That is a pretty heavy price for the tenant to pay for this forward-looking rent registry. It is



really only concerned, it seems, with the prevention of future ripoffs of tenants by landlords, not with the wrongs done to tenants in the past.

Apparently, the only conversions taking place are not to such things as apartment hotels. It seems the landlords themselves are supposed to be undergoing a kind of conversion of heart. All of a sudden, they are going to become good landlords. Tenants and landlords have come together at last. Oh, what a glorious hope--but pretty far from any semblance of reality.

Let the government coax the landlords into the rent registry in as positive a manner as possible, but not on the backs of tenants. Tenants and landlords have not come together in peace and harmony. The wedding is off and so are the gloves. That much is pretty obvious from these hearings.

I also disagree totally with the attempt of Bill 51 to do away with the initial rent review hearing in favour of an administrative process. To me, it sounds like the bureaucrat's dream and the tenant's nightmare. Let it be clear: I have very serious misgivings about the virtual loss of a due process hearing at the initial level of the rent review process.

Please allow me to close by saying two things. First, while Bill 51 has some good points, in many respects it is a banquet and a feast for its critics. Others have already levelled most of these criticisms at Bill 51, especially the August 26 brief presented to this committee by the Federation of Metro Tenants' Association. I agree substantially with that brief.

Finally, I would like to thank the committee for its patience, attention and interest. The importance of this is clearer when one grasps that members of the committee have to sit through at least 140 deputations. As far as I am concerned, you are all heroes and I thank you.

Mr. Chairman: Thank you, Mr. McDonald. Those were the kindest words we have heard so far and may ever hear, so we relish them. It was a very thoughtful presentation and we appreciate it. Are there questions from any members of the committee? You explained your position well.

Mr. Davis: Perhaps Mr. McDonald can help me. If I am correct in my interpretation, one thing I discovered in Bill 51 is that there is the possibility that large numbers of tenants will face substantial increases. It has been suggested that with the increases some who are not on any type of subsidy will find they have been put in financial difficulty and will need some subsidy. People who have never before received any kind of government benefits may have to receive benefits. That is one side of the equation.

The other side is the landlord who has charged people legal rents. If you have been here, you heard today from some of the small landlord-owners that some of the rollbacks will put them into receivership. I am having some difficulty coming to grips with what I think is a moral issue that deals with a tenant who has been charged illegal rents and with a person who is either an immigrant or a person such as you or me who has decided to invest and, for whatever reason, has charged more than he should have charged. I am not prepared to argue whether it is a technical or an absolute breaking of the law.

My concern is that those individuals could find themselves insolvent and lose their apartments. I think of the two elderly ladies who recently lost their husbands. They indicated to this committee yesterday and today that they could find themselves in that position. Is there an alternative that we could find together? I have been able to think of only one. I am sure, if people put their minds to it, there are much more practical ones.

I stand to be corrected, but as I understand the bill, if I were a landlord and found myself in a position of having to declare bankruptcy and lose the building, the building would then be sold. Another individual comes and buys the building. Therefore, he could apply for the average increase, but he could also put an increase on top of that. He could have an increase this year of 5.7 per cent, let us say. With another increase, it might be 10 or 11 per cent. I am guessing at the figures.

As a tenant, would you prefer that process to one in which the landlord who had charged illegal rents was penalized a fine--and I need to do something with the fine; I have not figured out what to do with it--and told there can be no increases until the rent is more in line, and then Bill 51 kicks in. Where do you come down on that?

Mr. McDonald: My whole presentation is addressed from the point of view of apartment-hotel conversions. In that situation, we are dealing with very wilful people who know exactly what they are doing. Perhaps there should be a provision in Bill 51 that would allow for a determination by the administrative tribunal or whoever gets to hear the case to determine whether it is a matter of neglect that is not wilful.

It is almost in the area of criminal law, in the sense that you are determining whether a person is knowingly doing what he is doing and not slipping into it by ignorance and so on.

Mr. Davis: The problem I have to struggle with, and I suggest society has to struggle with, is a very important one. When we create situations through government legislation which can force people to lose livelihoods and jobs and at the same time place more rents on people who normally would not have faced them, it is society's problem and someone should address it. I am looking for an answer to help me wrestle with it.

Mr. McDonald: I am sorry I have not been able to give you more of an answer.

Mr. Davis: That is a partial answer. It might include a number of options. Thank you.

Mr. Chairman: Thank you, Mr. McDonald. We appreciate your attendance.

This completes the afternoon work. The person who was to appear at 8:30 p.m. has cancelled. We have three presentations this evening.

The committee recessed at 5:03 p.m.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT  
RESIDENTIAL RENT REGULATION ACT  
THURSDAY, AUGUST 28, 1986  
Evening Sitting





CHAIRMAN: Laughren, F. (Nickel Belt NDP)  
VICE-CHAIRMAN: Ramsay, D. (Timiskaming NDP)  
Bernier, L. (Kenora PC)  
Cordiano, J. (Downsview L)  
Epp, H. A. (Waterloo North L)  
Knight, D. S. (Halton-Burlington L)  
Pierce, F. J. (Rainy River PC)  
Reville, D. (Riverdale NDP)  
Smith, E. J. (London South L)  
Stevenson, K. R. (Durham-York PC)  
Taylor, J. A. (Prince Edward-Lennox PC)

Substitutions:

Callahan, R. V. (Brampton L) for Ms. E. J. Smith  
Davis, W. C. (Scarborough Centre PC) for Mr. Bernier  
Hart, C. E. (York East L) for Mr. Epp  
Jackson, C. (Burlington South PC) for Mr. Taylor  
Mitchell, R. C. (Carleton PC) for Mr. Pierce

Clerk: Decker, T.  
Clerk pro tem: Arnott, D.

Staff:

Ward, B., Research Officer, Legislative Research Service

Witnesses:

From the Orton Corner Tenants' Union:  
Dean, H., Organizer

From the Ministry of Housing:  
Church, G., Assistant Deputy Minister, Corporate Resources and  
Building Industry Development  
Stratford, L. A., Senior Solicitor, Rent Review Division

Individual Presentations:

Brown, A., Member, Federation of Metro Tenants' Associations

Charland, J.

LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, August 28, 1986

The committee resumed at 7 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT  
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

The Vice-Chairman: I would like to welcome Heather Dean to the committee and to hear her views this evening on Bill 51. The floor is yours.

ORTON CORNER TENANTS' UNION

Ms. Dean: I am sorry, I do not have a written brief for you. I am going to do one. The project I am about to describe to you, which I have been working on for 16 months, has given me two gastric ulcers and I have not been up to it lately.

I did this for two reasons. One is a boundless capacity for moral indignation and the other is the anticipation that this might be coming up. I felt we might be reforming our rent control laws, and if we were, we had to have some experience to analyse. We have had rent controls on the honour system for 10 years in Ontario, and I am hoping to make explicit and graphic to you just what legacy we face from those 10 years.

In July 1982, I moved into an apartment in a two-building, high-rise complex owned by Jack Buchman's Toronto Apartment Buildings Co. Ltd. The rent was \$450 a month, plus \$15, for a one-bedroom. A whole building review was in progress and a number of tenants had copies of the landlord's form 2A listing the rents as of April 1982. I saw on that form that the apartment I had rented for \$465 in July had rented in June for \$289. That is a 60 per cent increase. The landlord withdrew his application for review when the commissioner began asking questions about rent levels in previous years. I went to the commission for a single unit review.

I am going into some detail here because I think my experience demonstrates why the one in 300 tenants who do apply to have their rents legalized do not reflect the number of illegal rents there are around.

I was asked what proof I could offer of the preceding tenant's rent. I suggested to the mediation officer that she had it in the file. She denied it. She said she had nothing. I went back, got a copy of the form 2A and delivered it to her the next day, at which point she admitted she had it, but said that it did not constitute evidence.

I finally wound up in the commissioner's office arguing that if the landlord filed with the commission a form 2A that said the rent was \$289, it should at least create a rebuttable assumption that it was \$289. Eventually, he accepted that and I had my rent reduced to \$306 from \$465.

Incidentally, the question of the acceptability of that kind of evidence has been before the courts many times since then and it has always been accepted. The courts hold either that the landlord is estopped by representation from trying to impeach his own evidence or at the least that if the landlord wants to impeach it, he has to produce evidence to impeach it. He can not simply stand back and deny it and say: "A big bird may have put it in the files. I do not know where it came from. Prove it is mine."

In May 1985, about three years later, I canvassed the two buildings in the provincial election and I found several tenants in the identical apartment to mine paying \$465. I decided I was going to get the 1982 rent list out of the files and go around the building one more time. I was not working and I had several thousand in the bank and I felt I could donate a couple of months to a community service project. I expected to be finished by September 1985.

Just on spec, I took up to the commission a demand in subpoena form for any material relevant to the tenancies of a number of my neighbours from whom I had agency authorization. The commission lady officer read this over and she dropped a bombshell. She said, "Actually, we have rent lists from the 1970s but they are restricted." I was going to have them if I had to organize a sit-in in Ed Fulton's office to get them for us. I asked to see the regulations to see to whom they were restricted. The guidelines said they were restricted to persons with an interest such as a current tenant. The guidelines further said that in the event of an application to the commission, the commission staff was supposed to search the archives, photocopy anything relevant and incorporate it in the new files.

For 10 years, the commission staff had not found the rent lists from earlier years to be relevant to an application on illegal rent. The official policy of the commission is that these shall be used and the actual policy is that they have been buried. Scarborough Community Legal Services was amazed to discover what was in those archives once I got in there. They had represented tenants from these two buildings at the commission for 10 years.

The material I found in the files was required by the rent review programs, regulations and procedures in the mid-1970s. In the case of our buildings, there was an order of the rent review board directing the landlord to file the July 1975 and May 1976 rents for all units in both buildings. There were 16 units under review. There were 290 additional rents that had to be filed. After 1977, the material that was filed was accompanied by a statutory declaration on the first page of the landlord's cost-revenue statement attesting to the accuracy of the cost-revenue statement and all attachments.

I inquired of the Residential Tenancy Commission how many other rents were filed in the same manner. The only statistic they could offer was that 255,000 units were reviewed in the first year after controls were passed in January 1976. In our case, 16 units were reviewed and 300 rents were filed. When we put together for succeeding years the number of units for which there has been a whole building review, which is in the hundreds of thousands, it is very likely that the government has on file evidence of illegal rents for at least 700,000 units in Ontario, possibly 95 per cent of the units in Ontario.

Armed with a pretty complete rental history from July 1975 forward, I found this situation. Our landlord had opted out of rent controls. It raised rents as often as possible and as high as the market would bear. It raised rents two and even three times a year. It has charged the tenant \$300 for an



apartment under rent review order at \$233, then applied to rent review for a further excessive increase on that rent before the ink was dry on the order. The commissioner pointed this out to the landlord but no action was taken on it.

The occasional forays to the rent review board for increases on some units in excess of the maximum demonstrate that Buchman, our landlord, was aware there was a law regulating rents. If you examine the increases and the rental history of the building, he does not seem to have been aware of it. He was operating as though the law did not apply to him. There is no evidence in the rental histories that he knew there was a law.

The bottom line is that by 1985 he was taking around \$300,000 per year in illegal rents from the two buildings, close to \$100 per apartment per month and has taken an estimated \$2 million altogether. Now that Buchman has been exposed, landlords like Grenier are drawing aside their skirts and calling him the exception, but I have no reason to believe this. I did not single out Buchman for this kind of scrutiny because he was an outlaw landlord or because he was my landlord. If other landlords have not done the same, why not? Now that Buchman has been caught, what punishment does he face? What was the downside risk? There is no penalty. The current tenants have applied for around 15 per cent of the estimated total collected in illegal rents. He has to give them their money back, but he does not have to pay interest on it.

If we could locate everyone who has moved out, we could apply for all of the money back that he has collected, but he would still have had \$2 million interest-free for all those years. There is no risk attached to charging illegal rents. There is no penalty for it. Of course they are doing it.

The kindest estimate from your civil service is that when tenants go down on Monday to pay the rent, more than 500,000 of them will be paying illegal rents. At least two million tenants, counting only voting adults, have paid illegal rents. This is a legacy of 10 years on the honour system. Before you legislate, I think you should analyse your experience.

A civil servant put it to me that there has been a greater than 50 per cent noncompliance with the regulations. You run that one by your constituents and it is going to come out that the majority of Ontario landlords are crooks.

A long, sinister explanation for how this bill goes wrong might suggest this government has not yet adjusted to being in power. The mentality of RRAC is that of a community leader mediating equal access to recreational facilities for seniors and teens. Both sides have equal rights, equal validity and equal legitimacy.

19:10

Liberals have to realize they are making rules now. The interested parties are victims and perpetrators. If the method for assembling this bill catches on, I am expecting Mr. Scott will invite me to join a joint committee of little old ladies and mothers.

I have a sister who buys lottery tickets. She says she knows she is not going to win, but it is so much fun just planning how to spend the million that she gets her money's worth. It was something in the same spirit that I heard Mr. Curling announce the general policies for his reforms. I daydreamed a bit about what it was going to look like, even though I knew getting the Liberals to keep a promise is like nailing Jello to the wall.

We were going to have a registry where a tenant could go to find out what his rent was supposed to be. Terrific. Rents were going to come down all over Ontario. Budgets were going to come down in social services that include rent. Women on family benefits would be able to pay the rent out of the rent allowance plus the clothing allowance and would not have to use the kids' food allowance also.

I know a lot of families that now deal with the problem of the rent levels by putting four kids in one bedroom and having the parents sleep on the living room rug. They would be able to afford two-bedroom apartments. Great. Instead of a registry where a tenant can find out what the legal rent is, we are going to have a registry of illegal rents. A tenant can now phone up to find out the illegal rent for his apartment; that is, what rent was charged in July 1985. The use of this is a little hard to see.

I have some alternative proposals for the new rent control methods. I have seen Mr. Curling quoted in the Sun. I do not know how accurate those quotes are, but they say things I find horrifying. One such thing is the stripping of the right of tenants to redress. The right to get money back if a tenant discovers he has paid illegal rent is necessary to bribe landlords to comply with the registry and to bribe them to send the rents into the registry.

I have a warrant for my arrest at home. It says it is for overtime on a parking meter and it says I can pay \$35 or spend three days in jail. Perhaps Mr. Curling might send somebody over to Mr. Scott's office to be briefed on alternative methods to bribery for getting people to obey the laws.

If we have to bribe landlords to obey the law, why do it with tenants' money? The tenants in our buildings are poor. The majority are convention refugees. Our landlord specializes in collecting the most friendless and helpless people he can find to steal from. We have a fair sprinkling of disabled adults, old-age pensioners and some standard immigrants, and we have a dozen one-parent families. I know the kinds of sacrifices they have made to pay these illegal rents. Why bribe landlords with that money? Why not set up a fund to indemnify landlords out of taxpayers' money if they get caught. We could short-title the enabling legislation the Perpetrators' Compensation Act.

As Mr. Curling has expressed it and citing other people's examples, the problem seems to be that landlords simply will not set up the registry for you. You need some very powerful inducements to get landlords to set it up. Why not take the obvious step and not have it set up by landlords? Why do we need landlords to set up this registry? The government has said it was going to set up a registry. Let it do it. The government has in its files all the information it needs to set up a registry of legal rents. Landlords can be invited to submit their current rents in July 1985, but those rents should not be registered as the legal rents if the government has on file information that those rents are illegal, and the government has it. I found it for our two buildings, and it is there for all of them.

I have a lot of other things, such as maintenance, that I want to get into, and I am going to do it in writing. We have a lot of opted-out landlords in Ontario. If we want to know the effect of rent controls on maintenance, instead of speculating, let us just compare the maintenance in the buildings of opted-out landlords to the maintenance in the buildings of landlords who are under rent control.

I want to talk about harassment and intimidation. I want to talk about our landlord's response to this, which was to take an application for a 25 per cent increase to the commission. The tenants have taken applications for 220 refunds of illegal rents. The first was filed in May 1985; none has been heard. The landlord's application for the 25 per cent increase was filed at the end of July. It has been heard, but we have not had a decision on it yet.

Tonight, because I have not given you a written brief, I want to concentrate on the one issue. I am going to stop now, but look for me, I am going to be sending it in some day.

The Vice-Chairman: Thank you very much. You have made a very provocative presentation. I have already had to start up a speakers' list. You have stimulated some questions for our members. I hope you will stay to address them.

Mr. Mitchell: Indeed, you did raise a number of questions, certainly for me. I would like to know what you are talking about with regard to opted-out landlords.

Ms. Dean: There is a law that says you can raise the rent by six per cent, eight per cent or four per cent maximum one time a year. A landlord who raises the rent three times a year to whatever the market will bear I call an opted-out landlord.

Mr. Mitchell: May I interject at that point? I understand now where you are coming from. You talked in your comments about rent control being on the honour system, and I would like some further elaboration on that. Surely to goodness under rent control, and nothing is perfect--I am not being a devil's advocate or anything; I am asking a question--

Ms. Dean: You go ahead with it, no problem.

Mr. Mitchell: --under the current legislation, the same avenues are available to you as tenants that are available to landlords. In other words, you can appeal or apply for a hearing to have rents reduced.

Ms. Dean: Provided I have access to the landlord's records--

Mr. Mitchell: That is an interesting point.

Ms. Dean: --which I do not.

Mr. Mitchell: But you can. If you will make that appeal, those papers have to be filed. I stand to be corrected, but I believe you are entitled to the delivery of them well in advance of the hearing being held.

Ms. Dean: No. This is why I said I would go into a little detail about my own experience in going. They will not open a file for you until you provide proof of the previous tenant's rent, which has to be a cancelled cheque or receipt from the previous tenant. You do not know who the previous tenant was. Also, you do not have subpoena powers. It is not court. The Residential Tenancy Commission definitely does not give you subpoena powers until you have already proven what the rent was.

Mr. Mitchell: I understand where you are coming from. You are talking on the basis of the increase in rent from what it was before the tenant moved in, which has not been registered, to what the new tenant is paying.



Ms. Dean: When you say "current legislation," are you referring to Bill 51?

Mr. Mitchell: No. I am not talking about Bill 51. I am saying what you have available to you now, because that is where a lot of your comments came from. Has anyone of your tenants or anyone in apartments that you are aware of instituted his own appeal? Are you aware of the success rate of that? I know of some tenants who have.

Ms. Dean: Yes. I have been working full-time for 16 months on this. I have taken applications for tenants of 50 different nationalities. The organizing problem that I found was just staggering compared to what I was expecting. We have taken 220 applications. Out of 306 units, 280 were illegal.

Prior to that, about one in 300 tenants was able to discover that his rent was too high. The majority of those were based on the 1982 list that I used myself. That is the provincial statistic. For 913 rental units, 3,000 tenants a year apply to the commission. One in 300 finds out.

Mr. Mitchell: What bothers me about what you said is that one of your comments was that the opted-out landlord is one who raises the rent to six per cent three times a year. That in itself is illegal; so I have to ask where were the tenants that they did not jump on this and say: "we have a tenants' organization here. We are going to go back and we are going to force a hearing at the Residential Tenancy Commission"?

Ms. Dean: The tenants were moving in and they had no idea what had happened in the previous year.

Mr. Mitchell: But surely there were tenants in the building who were affected by the three increases you are talking about. Surely not everybody had moved out.

19:20

Ms. Dean: No. The increases are taken on the turnovers.

Mr. Mitchell: You are talking strictly about the turnovers then.

Ms. Dean: Not strictly, but tenants usually can deal with illegal increases that occur to them. The increases are on the turnovers.

Mr. Mitchell: I am not disputing your comment that some landlords are doing that. I want to come to the question of the rent registry. A number of years ago, the Minister of Consumer and Commercial Relations of the time attempted to create a rent registry. I cannot recall exactly what happened, but that was thrown out of court then; it was ruled invalid. Perhaps you can comment on that.

Mr. Church: The statute that provided for the rent registry did have some sections that were thrown out of court because they dealt with the constitutional powers of the Residential Tenancy Commission. I am not entirely familiar with the legal niceties of the decision, but I understand that was only partially the reason the registry was not pursued.

Ms. Dean: Are you referring to the parts of the Residential Tenancies Act that were not declared in force?

Mr. Church: No. I am referring to a court decision, but I must admit I am being very vague in this respect because I am vague--

Ms. Dean: A decision on which act?

Mr. Church: If we want to go into this, some of our people here could provide us with--

Mr. Mitchell: No. I just wanted to point out the problems with the whole basis of creating a rent registry. My follow-up question on that was how you intend to create a rent registry now on the basis of the original court situation.

Mr. Church: The legal basis for the registry has been cleared, and we believe this registry will be found to be within the powers of the government. Furthermore, when a landlord registers his rents, it is certainly the intention to check all the data we have available, to determine whether that rent is apparently illegal. In the event that it is, we will roll it back.

Ms. Dean: It does not say that in the legislation.

Mr. Mitchell: If, as the lady says, all that information is held in the offices of the current Residential Tenancy Commission, why have the commissioners not been paying attention to it, even though legally there is no rent registry? If that information was there, why has it not been looked at when there were cases? What is being said here is that this was not information that was even considered by the hearing officer.

Mr. Church: The system as it stands now is entirely a tenant-initiating system, and you correctly point out that is the only basis upon which it can be raised. Any information the Residential Tenancy Commission has in its possession at the time of a hearing or at the time a file is opened is utilized, but it is perfectly true that because such a very small minority of tenants came forward--many did not have the capacity to come forward in terms of either resources or knowledge--a very small minority of illegal rents were challenged.

Mr. Mitchell: That is part of the problem. I am going to wrap up, but I think part of the problem even with the current legislation may be that tenants did not realize the power they had within that same act to do things for themselves. When I say that, I do not mean that unkindly, but I think it is part of the problem.

Ms. Dean: If tenants knew, they generally would move, but the problem is information. That is why we have been screaming for a registry for so long. The problem has been information; the tenant does not know.

Mr. Mitchell: By the way, a final comment. There is a gentleman sitting in the audience this afternoon, Dan McIntyre, who was involved with tenants in Ottawa-Carleton. I know he had organizations doing that, because Dan and I have talked about this many times.

Mr. Reville: Mr. Chairman, may I have a supplementary?

Mr. Chairman: Yes.

Mr. Reville: I wonder if Mr. Church can tell us whether the current rent registry differs in material respects from that which was contained in previous legislation, which I understand was not proclaimed.

Mr. Church: It varies in a great many respects. In fact, it is fundamentally quite different in the concept of how it is going to be operated, how the information is inputted and how it is accessed. Not only has the technology changed dramatically since that first registry was conceived but also the purpose for which it is to be used has changed.

I then rush on to say that I am not at all familiar with the nascent legislation or the reasoning behind the original legislation. I will have to refer to some of my staff if you want that in more detail.

Mr. Reville: Could I ask the ministry to provide a comparison of the two approaches to the committee at some other time? It would be useful to have it in writing, with some explanation of what happened in the past.

Mr. Church: That is a feasible proposition.

Mr. Mitchell: If I remember rightly, that was a court decision. Someone challenged that portion of it, and the judge ruled it--I think you used the word--unconstitutional.

Mr. Church: There was an ultra vires ruling dealing with the ability of a nonjudicial body to make a judicial decision, but I think that dealt more with the issue of the enforcement of landlord-tenant issues than it did with the rent registry.

Mr. Reville: I would be interested in seeing that court decision as well, because my understanding is that the court decision did not go to the constitutionality of the registry at all.

Mr. Chairman: We could get an interpretation of it from Ms. Stratford, the senior counsel from the ministry.

Mr. Mitchell, we are not picking you up very well for Hansard. Will you speak into the mike.

Mr. Jackson: I can hear him.

Mr. Chairman: I know you can, but the public wants out there wants to hear it. Proceed.

Ms. Stratford: I do not propose to go into the whole explanation of the case, but you are correct in that one of the issues was not the rent registry and its constitutionality per se. The case centred mainly on whether provincially appointed decision-makers could make decisions in areas that were traditionally exercised by federally appointed decision-makers, federally appointed judges such as county court, now district court, judges. The rent registry would not fall within that purview. It was primarily the province's jurisdiction to appoint a tribunal to do such things as evictions and this type of thing. We can certainly provide you with a more detailed explanation.

Mr. Chairman: Thank you.

Ms. Dean: Could I ask for a clarification of one of your points, Mr. Church? You said--and this is true, I know--that there is a provision for rents that are filed by landlords to be matched against data the commission has.

Mr. Church: That is correct.



Ms. Dean: Only part of the data, actually; that is, only orders of the commission. However, there is no provision for doing anything about it. What I would like to see is a tenant being able to phone a well-publicized number of the registry and get a registered rent--it may take a court decision to decide what is exactly the legal rent, in terms of knowing the actual rental history of leases and so on, but it will be a maximum possible legal rent.

The rents that are going to be provided by landlords, if they provide any, which apparently in other registries they have not--we know we have asked them to file illegal rents, if those are the rents that are going to be given to the tenants. We have asked them to file the current rents for July 1985. They have to sign a statutory declaration that those were the current rents of July 1985. If a landlord wanted to come clean and file legal rents, he would be violating that statute.

What will be provided to the tenants? The landlord's information will be provided to the tenants.

Mr. Church: I do not wish to be argumentative, but there are several factual errors in what you have just said.

Ms. Dean: That is what I was asking for.

Mr. Church: To cover them very quickly, first, the landlord is required not only to file his August 1, 1985 rents but also to declare that they are in fact legal, or filed as legal rents.

Ms. Dean: No. He is asked to declare that they are the actual rents.

Mr. Church: No. You are simply reading the enabling legislation in the statute. Perhaps we could provide a copy of the Hansard where we laid out the operating procedures and the regulations we are proposing to introduce. Quite understandably from the enabling legislation, it is pretty slim, but the Rent Review Advisory Committee has laid out pretty clearly--and the government has accepted--an operating procedure that is not terribly different from that which you have described. It is somewhat different, and I think rather than getting into a lot of details on specific points, I can assure you that where the government has specific information that not only proves but even suggests the rents filed may be illegal, they will be pursued and investigated by the government.

Ms. Dean: That was me talking on the Rent Review Advisory Committee too.

Mr. Church: This is a statement in Hansard, and I can be held in contempt of the Legislature if I am wrong, but that is what we are doing.

Ms. Dean: Can I get a copy of that?

Mr. Church: Sure.

Mr. Callahan: Ms. Dean, I have listened carefully to what you have said, and I am not quite certain whether you are saying the legislation that is being brought forward now is better than the previous legislation. I would be inclined to agree with you that the previous system was absolutely untenable, if I can use that word, because I represented a number a tenants who went before rent review hearings, and they were very difficult for a lay person to comprehend or deal with. Have you read Bill 51?

Ms. Dean: I have read Bill 51. I have not read Hansard.

19:30

Mr. Callahan: You realize there is a rent registry system in there that will allow a tenant within 90 days to question the legality of the rent. He can go back beyond to determine whether there were orders that justified the rent increases or whether there were no orders. He will be able to find out about the opted out, as you call them--those are words I do not like to use any more; I would like to see them put to rest.

Ms. Dean: Opted out and extra billing is the situation.

Mr. Callahan: But that certainly is a substantial move forward in relation to what existed before. I quite agree with you that the practice that appeared to exist was that every time somebody moved out, there was an increase put on without any application--not in all cases but in some cases.

Ms. Dean: To move forward, if the July 1985 rent is on the record, I do not know what provisions you are taking for landlords who simply refuse to file, but let us suppose the July 1985 rent is on the record; the tenant can phone and find out what that is. Presumably, in 1990 that will aid the tenant in detecting an illegal increase taken between 1985 and 1990, but the tenant is in exactly the same position as before in detecting an illegal increase taken before the rent was filed.

Mr. Callahan: Ms. Dean, there is an excellent book over there that is available to the public. Perhaps you should take one and go through the bill again, because it does give you a very good explanation of certain sections.

Ms. Dean: I have read it. I consider it cynical.

Mr. Callahan: It is my understanding that within 90 days the tenant can challenge the rent, and at that time he can go back and investigate whether there are orders that substantiate the rent that is on the registry or whether there are no orders, whether the rents are illegal. In fact, if the tenant establishes that case, it is my understanding that there can be an order of a rebate.

The carrot to the landlord to file with the registry is that if he does so, then the longer two-year period that would have been given to the tenant to question the legality of the rents is gone. I stand to be corrected by the ministry, but the tenants have to move within 90 days. If the landlord does not file with the rent registry, however, then you have a longer period of time. It is my understanding that if there is even an imputation of illegality, the period of time the tenant is given is actually extended, even though there has been a filing by the landlord, for two years. I would defer to Mr. Church, who is shaking his head that that is correct. I suggest that this is a very significant step forward in dealing with this.

May I address the circumstances?

Ms. Dean: What is the difference, though? The tenant can challenge the rent now.

Mr. Callahan: In the first instance, the tenant had no way of knowing, as you have just explained to us. He had no possibility of finding

out what went on before, the history. There was no way of checking into it, simply because there were no records of it.

Ms. Dean: I managed to do it, but I am saying that your average tenant--

Mr. Callahan: But for the average tenant who did not have 18 months to devote to community service, that was not possible, and in most cases it is a practical matter that he did not do so.

I would like to address the second issue, because it is very important too. You are quite right that there were no teeth in the previous legislation. There is a penalty now; you can prosecute. A landlord can be prosecuted for charging illegal rents, and that was not there before. I suggest to you that this is also a very significant step forward that will assist tenants in enforcing these matters. What it will do as well will be to place the landlords who have been fair and just in this province on an equal footing with those who have not been quite as just.

I hope--I can only say "I hope" because, human affairs not being perfect, there will always be people who I suppose will try to beat the system, be they tenant or landlord--but those are the two items I heard you address. I really feel that if you have read through the legislation--this is not a criticism at all, because it is a difficult piece of legislation to read through--you missed some of those points. I would encourage you to do it again, because I submit that there are, at least on those two points and on several others, matters that have been changed and have been addressed by this legislation that will assist tenants as well as those landlords out there who have been playing by the rules.

Ms. Dean: I am pleased that there is a penalty; I think it is a step forward. However, if you made any notes on the numbers I was reading you on the amount of money that was being taken annually in illegal rents, the penalty, and the likelihood of the penalty being charged, does not signify \$300,000 per year.

Mr. Callahan: We will never redress all the wrongs of the past. The bill limits the amount you can collect in back rents to \$3,000. That is my understanding. You will never reverse a trend that should have been reversed years ago, but it was not addressed by the previous government. It is now being addressed. At least you have the right to go back and collect up to \$3,000 in illegal rents.

Let us look towards the future in terms of some degree of harmony between landlords and tenants, rather than you having to come before this committee 10 years from now with the same argument to put forward and the same wrongs to be redressed.

Ms. Dean: The bill limits collections for any landlord who files, not for whether he charged legally or illegally, to July 1985. The \$3,000 is a limit on the maximum the commission can order, the maximum imposed within its jurisdiction. The limit, and the tariff for the landlords, is that if they will file, a tenant cannot collect any illegal rent that was paid by the tenant prior to August 1985.

Mr. Callahan: But if they bring in their application within 90 days and can establish that there were illegal rents, it is my understanding, and I stand to be corrected, that even if the landlord files, it does not confirm



his rent is lawful. You can still have two years to dig up all the material and get your rebate.

Ms. Dean: Your rebate cannot precede August 1985.

Mr. Callahan: No, you can go back beyond that period. You can go back and uncover all the--

Mr. Church: I think you are both correct. You can go all the way back to document why the rents are illegal. However, the deputant is right: The liability for registered landlords can go back only to August 1, 1985. It is approximately two years, for example, from the probable beginning registration date. You can go all the way back to establish what the legal rent should have been. It can be rolled back to that level, but the payment back is limited to the amount that has been paid illegally since August 1, 1985.

Mr. Callahan: All right, but for the tenant from that point on it will be the established lawful rent.

Mr. Church: Yes, and it will have been argued all the way back to 1975, if necessary.

Mr. Reville: It is in section 63, Mr. Callahan, if you read the legislation.

Mr. Callahan: Thank you, Mr. Reville.

Mr. Jackson: My question was going to be a question, but I would like to make it a request. Since legal counsel is going to prepare a précis of what happened between the two sets of legislation with respect to the issue of the registry and why there were not constitutional grounds for those rulings, it strikes me, because of an increasing uneasiness about this equalization of rent, that perhaps we should request an opinion from the office of the Attorney General (Mr. Scott) with respect to any conflict with the current charter on this point.

The point is whether it is constitutional for a tenant's rent to be in a public document when that in and of itself becomes the source for another tenant to cause a greater rent increase than the legislation provides for in normal circumstances or in the absence of a rent registry.

This point came out when we asked the question of who triggers the rent increase for the co-equal tenancies. It is obviously the tenant who is paying the high rent. How does he or she gain knowledge of it? He gains it because of the specific public document known as the registry, which exposes the variance in rents.

Is that at variance with your rights as a citizen to maintain a certain privacy of records of your accommodation costs? It strikes me this is a case where you get specific punishment because of the existence of the registry. I would like the Attorney General's office to submit a written opinion. It is not that I do not trust legal counsel, who has been doing a wonderful job. However, I think something of this nature should be determined now, before it becomes a bill, and not have the whole process tied up because someone has come up with the idea of challenging it in the courts. Is there any difficulty with the chair directing the clerk to request that?

The Vice-Chairman: I will so direct.

Thank you very much for your presentation. You obviously provoked a lot of questions and discussion.

Let us call upon Al Brown. Mr. Brown is a member of the Federation of Metro Tenants' Associations. Welcome to the committee, Mr. Brown.

19:40

FEDERATION OF METRO TENANTS' ASSOCIATIONS

Mr. Brown: Good evening, ladies and gentlemen.

Please give me a moment to reflect. I fully approve of these hearings, not because of issues but because they give us an opportunity to come into direct contact with our policymakers. When you make the policies, we have to live by them. If you have done good, we laud you; if you have done things that are not so good, we castigate you; and when we are in this chair, we have full autonomy and you have to listen to us. I presume that is the democratic way.

However, there is a "but" here. Are you trying to give the impression that these hearings are what the people want? You must excuse me here, but I have had it from good authority that the Premier (Mr. Peterson) made a statement this morning that this bill stands as it is today regardless of the 100 amendments. We met previously and we came to the conclusion that there were 100 amendments. I do not know whether this is correct or what the outcome will be. I do not know whether this is true, but what I have heard is from very capable people and I am inclined to believe it.

Before I make my submission, would it be possible that I get the assurance that what I have just said is right or wrong? Is there any possibility that I can get these assurances? You may excuse me for what I have said, whether it is true or not. It is unfortunate, but what I have heard is on good authority. Whether you gentlemen know that, whether you know the result or the outcome, if I have to make my submission, will it go in one ear and out the other? That is not a true evaluation. Am I going to get the right consensus? Can I get an evaluation?

The Vice-Chairman: I can answer your concerns. We are very concerned about what you have to say. We will be listening and taking what you say into consideration. What the Premier said this morning was his wish on how he wants the legislation to end up; basically, what he has with the government's own amendments. A lot of them are housekeeping amendments and do not change in principle any of the tenets of this act.

Mr. Jackson: How can you say that if you have not seen the amendments?

The Vice-Chairman: That is a good point. I defer to my lawyer friend here. We are assured that these 100 or so amendments--and these are government amendments we are speaking about--are basically housekeeping amendments and also relate a little more closely to the Rent Review Advisory Committee recommendations to the government, so that agreement conforms with the legislation.

As far as what comes out of this committee is concerned, I have absolutely no idea how the final legislation will end up. I am not sure

anybody in this room does. We are listening to people and things have really changed in the past few days. After the assurances when this legislation was brought before us that this was an agreement of tenants and landlords and that this was the way those people wanted this act to read, now that we are hearing from both sides this does not necessarily appear to be so. We are listening now. We also want to leave Toronto and go to other centres to find out what the consensus is in those places.

We welcome your opinions. They will not fall on deaf ears. They may have an effect on what amendments are moved to this legislation by any of the three parties. Please proceed.

Mr. Brown: We know there will be a new bill. We are not disagreeing. We, the tenants, wish to co-operate fully. I am very dubious whether the landlords will. I and my people are concerned that there should be an assumption of fairness for the tenants for the simple reason that for 11 years, since 1975, we have been nothing but screwed right and left. Excuse the expression, gentlemen.

Mr. Reville: Mostly from the right.

Mr. Brown: I beg your pardon; I stand corrected. I am not going to give you the fable of the squirrel--was that a tiger or was it an ant?

Mr. Reville: I think it was a grasshopper.

Mr. Brown: I thought it was an ant because the landlord who came here previously must have had ants in his pants. Also, gentlemen, why water? Why do you not have a bottle of champagne?

Mr. Mitchell: The taxpayers might resent that, thinking that is all we do here.

Mr. Brown: My dear, good man, I am a taxpayer as well. You gentlemen make policy through me. You have been put in the position of the people, by the people, for the people. Therefore, I presume and hope that in the future you will do everything for the people.

Mr. Stevenson: Next time we will try to get champagne for you.

Mr. Mitchell: As long as it appears in the papers that a taxpayer suggested it.

The Vice-Chairman: Mr. Brown, we have limited time and there are other people who want to address us.

Mr. Brown: I beg your pardon; you are right. There is a time for levity and a time for seriousness.

What you have done by this proposed residential rent regulation is to create anxiety and mental anguish for many people. I have been asked what the landlords and government want and all I ask is to be left alone to live in peace. Bill 51 is an audacity to all decent-living people. This is also a contravention of the agreement between Peterson and Rae that was promised during the election campaign and in the throne speech. When a government reflects on an agreement, can there be trust? Mulroney, who tried to de-index seniors' pensions, capitulated because of the unity of the people's pressure.



In 1975 when the Residential Tenancy Commission was set up in elaborate offices in high-rise buildings, you had official secretaries, staff, equipment, etc. The upkeep was costing the government millions of dollars from the taxpayers' pockets. Specifically, what was it there for? It was there for the landlords to get yearly increases from tenants and to increase their profits--as of now it has been 11 years--making them very wealthy and creating extreme hardship for the tenants, especially elderly people living on pensions.

19:50

I hope the Liberals are not doing the same thing by copying the other party's practice and philosophy. I presume the Liberals know to whom I am referring, but Bill 51 is making me dubious. These tenancy commissions are discriminatory, biased, ignorant of the laws and give the vast majority of decisions in favour of the landlord, regardless of whether or not the tenant can afford it. In return, landlords let their buildings get dilapidated, filthy and infested and would not spend one cent on maintenance to keep them in livable condition. Unfortunately, that is how people have to live. Nobody listens to our complaints and we are intimidated by the landlords.

I am on page 2. To me, Bill 51 is a contemptible concoction of verbosity that people of intelligence do not understand. It is too bad Professor Einstein is dead; otherwise, we could get him to give us clarification on it. One of its main impositions and intents is, as the saying goes, to soak the poor and give to the rich.

There are hundreds of buildings with paid-up mortgages that are still getting increases and illegal rents. Some landlords have got off their rumps and have done some repairs and provided new appliances. They had to do so for the simple reason that the buildings were falling apart and appliances were breaking down. In the long run, it would have cost them more to make repairs than to put in new appliances. They went to rent review asking for 15 to 18 per cent increases, which is against the reason for the Landlord and Tenant Act.

They also add fictitious invoices. I know that is the truth because I was at several meetings where I represented people. The morons at the Residential Tenancy Commission allowed it. As you know, appeals take months, which is repugnant. The government should save millions of dollars by closing down these commissions. They are absolutely useless and they do everything in favour of the landlord and nothing at all in favour of the tenants. I cannot say a good word for them.

There is a tremendous amount of building going on by the private sector. There are apartments, condominiums, houses, centres, office buildings, malls, etc., and you know exactly what is going on at the moment. It has been going on for a very long time. The new units are all at very high rents and prices; there are no affordable houses or apartments. That is why there is a crisis, a shortage and a loss of rentable housing stock.

For the government to allow the landlords to increase rents of existing housing would be a delusion and a fallacy. To think this would give the landlords an incentive to build affordable housing is wishful thinking. It has never been successful and never will be. You have had the glaring proof right in front of you since 1975. I do not have to put emphasis on anything; you know it yourself. Ultimately, Bill 51 will only increase the landlords' profits excessively and create penury and hardship for the tenants. After 11 years, how long must this go on, especially now with the highly inflated cost of living?

On Tuesday, August 26--that was two nights ago; I think the majority of you were here--two excellent briefs were presented by the Parkdale Tenants' Association and the Federation of Metro Tenants' Associations. This should be taken by the committee for reference and information, in detail, on our position on Bill 51 and on what is right and justification for tenants, reforms and amendments, although this may not be necessary as there are about 100 amendments. If you do this, Bill 51 will look more like scrambled eggs or Scrabble.

My advice regarding this bill is to take it as a royal commission: read one page and store it in the vault to gather dust for the next 20 years. If they make amendments, it should be done with the co-operation of our glorious organizations. We believe that for the sake of peace and harmony, government, tenants' associations and landlords should work together, but I doubt very much that the landlords will comply.

This is very similar to extra billing. The doctors had extra billing for so many years and they wanted it to last a lifetime. As you saw, when it was cut off, you had demonstrations and they kicked up quite a fuss. This actually is the same thing.

We want peace and harmony. We want equal justice for the tenants. I doubt very much that landlords will comply because, as I have tried to quote what happened with the doctors, the landlords still want to have their cake and eat it too.

I concur with and endorse--and this, of course, is not the case if there are amendments or the possibility of bringing down a new bill, whatever the case may be--eliminating the residential complex cost index, which I do not understand, and the building operating cost index, with a percentage, which I also do not understand, and I went through it thoroughly. Let me remind you people that I had an excellent education. I attended a foundation that is one of the highest schools in England. I am not a dumb-bell when it comes to reading these sorts of papers, although I am not a lawyer.

As I was saying, the RCCI with the BOCI and the equalization should be totally eliminated. They are repugnant, antagonistic and hostile. As the law stands now, the increase is four per cent for the landlords until December 31.

This shall be the last increase, as we, the tenants, will not be screwed any more, we will not be gouged any more and neither will we be degraded any more. After 11 years, enough is enough. This is the end of the line. Excuse me, gentlemen.

At the end of this four per cent period, I would like to see a moratorium instituting a freeze on low rents for a period of five years. I am waiting to see whether anyone is going to laugh at me. The tenant has every right to get a little back of what has been overpaid in illegal rents. Maintenance should be on a monthly basis, including everything to keep it in good condition.

As I explained to you before, they have been lax; they have allowed their places to become infested and dirty. I have been to places that you would not believe. You see cockroaches walking about, and the landlords have done nothing. They are only interested in getting their money, their raise, and you can go and dot-dash-dot-dash. Excuse me. They should do everything to keep it in good condition.

20:00

Furthermore, the government should have inspectors to see that it is being kept in good condition because previously nothing was done. The onus of responsibility was always thrown on somebody else's shoulders unfortunately. We would also like to see the establishment of an Ontario housing program to fund immediately 10,000 co-ops and nonprofit housing units, in addition to those provided for under federal funding arrangements.

As Bill 51 is incomprehensible, I believe the Liberals are irresponsible with this bill, which is mainly for the landlords and contains nothing in favour of the tenants. Their greed will never be satisfied. After 11 years, they are discriminating and making others subservient to them.

I know the government has many priorities, but I believe the number one priority at the top of the list should be affordable housing. As the private sector has shown no response towards this, can we assume that government resources are the only ones to accomplish this? It is more important that all the giveaways would help towards funding.

I note a project being built on north Yonge, I presume with government money as the Minister of Housing's name is on the outside board. Is money going to private projects under the guise of senior citizen housing by private organizations that have been charging very high, excessive rents? This is a fact because I have been involved with all this. What I am stating and what I am saying to you is 100 per cent correct.

Gentlemen, you have been most patient with me and have listened to what I had to say. I appreciate it very much. Ultimately, we know there will be either this or another bill. I hope it will not be this bill because, as I said, there are 100 amendments. When that is finished, it will look like a piece of mishmash and nobody will understand it. Therefore, I would hope that--is my half-hour up yet?

The Vice-Chairman: Yes, it is.

Mr. Brown: I beg your pardon. Two more minutes.

The Vice-Chairman: Okay, two more minutes.

Mr. Brown: I hope we could get the co-operation of everybody, but I must emphasize that my endeavour is for the people, the tenants. As I explained to you, we have been gouged. You know yourself what has happened. I do not have to tell you. I hope we will be able to co-operate, come up with a nice, good bill and have peace and harmony.

The Vice-Chairman: Thank you, Mr. Brown, for a most enlightening and entertaining presentation. It was not hard to listen to at all. We enjoyed it.

Mr. Brown: Thank you very much.

The Vice-Chairman: I have one question anyway from one of the members. Mr. Reville would like to ask a question of you.

Mr. Reville: Mr. Brown, thank you for coming down two nights this week.



Mr. Brown: Merci, monsieur.

Mr. Reville: I appreciate your presentation.

Mr. Brown: Do not give me a hard time.

Mr. Reville: Oh, no. You and I are on the same side. What the government has said to us is that it is trying to sort out two sets of interests that were in conflict. It got this bright idea to bring some representatives of the landlords and some representatives of tenants together. It put them in a room and did not let them out for a long time. When they came out, they brought this with them. They carried them out; it was sort of in a wagon, on stones and what not. The Minister of Housing (Mr. Curling) and the Premier (Mr. Peterson) have both said that because of this wonderful thing that has occurred--

Mr. Jackson: It is called a miracle.

Mr. Callahan: It is far better than your government had.

Mr. Reville: How could this happen? I am not making a speech; I am asking a question.

The Vice-Chairman: Of course you are asking a question. Proceed with it.

Mr. Reville: Because of how miraculous all this was, the Premier says we had better not mess with it. You have said to us very clearly that we had better change this a lot. Does that mean you are not afraid that the whole thing is going to fall apart if we change this?

Mr. Brown: When we were here and presented our brief on Tuesday, you yourself specifically stated there were 100 amendments.

Mr. Reville: That is what the government has told us.

Mr. Davis: There are 101.

Mr. Reville: We had another one today.

Mr. Brown: I beg to stand corrected. Thank you very much.

Mr. Davis: It is 101 Dalmations.

Mr. Brown: I stand corrected; 101 is better than 100.

Mr. Reville: It may be worse, though; we do not know.

Mr. Brown: We want peace and harmony. We are willing to co-operate. I know for sure the landlords will not co-operate. This guy is looking at me with daggers.

Mr. Reville: Stare him down.

Mr. Davis: He does that in the House all the time.

Mr. Brown: Is that right?

The Vice-Chairman: Do not let him bother you.

Mr. Brown: He must be a Conservative.

Mr. Davis: No, he is not.

Mr. Brown: If he is not a Conservative, he is a Liberal.  
Conservatives and Liberals are both the same.

Mr. Davis: No, we are not.

Mr. Mitchell: He is a Liberal. They are NDP in a hurry.

The Vice-Chairman: All right. I am enjoying this, but this is why we cancelled evening sittings. We get a little silly here in the evenings.

Mr. Brown: It is very nice that we can put a little frivolity into this, because this is a very serious question. Brother Reville, go ahead.

Mr. Reville: Try not to call me brother; it gives the whole thing away.

Mr. Brown: I beg your pardon.

Interjection: Are you guys brothers?

Mr. Reville: You mean we are all brothers.

Mr. Brown: I am used to speaking to unions, because I am a very strong union man. When we speak we say brother and sister.

The Vice-Chairman: Proceed, brother.

Mr. Reville: Thank you, brother.

Mr. Brown: Parlez-vous français?

Mr. Jackson: Un peu.

Mr. Reville: Un peu. Thank you very much, Mr. Jackson. I even speak in his voice sometimes. It is amazing how I can do it.

One of the concerns I have that I am very serious about, actually, is quite apart from the anger about the bill that we have heard, particularly from tenants' groups but also from some landlords. The other thing that we have picked up very clearly is a lot of anxiety and concern. That was very clear last night. Particularly, we heard from a number of tenant groups in the west of Metro.

Mr. Brown: We have the same thing.

Mr. Reville: The government has suggested that as part of this process it is going to do a massive tenant and landlord education program. Do you have any ideas how that might be best delivered or do you feel sceptical about it?

Mr. Brown: Let us go back to what you first said. To clarify that bill and to put in all those amendments--I do not think we are going to get at some sort of clarification. On the other hand, we can get a clear sort of clarification if your committee will meet with our association. Then, I am sure, we could hammer out something very reasonable towards what I said would be fair to our tenants.

You will notice I do not turn around and say fair to landlords because landlords had their cake and ate it too for so many years; let it now be irrevocably a little fairer to the tenants. It is only fair that you gentlemen who make the policy see that we should at least be satisfied.

20:10

The landlords are satisfied. You have tried to get them to build affordable housing and you see they have rejected you. They do not want to have anything to do with it. They have not done any affordable housing. The housing they have built is for inflated, high, illegal rents which are not affordable. After all, we have seniors, pensioners and poor people. We have to take everything for granted and look after their interests.

Mr. Reville: One last thing. Would you let me know, not necessarily now, the address of the building you were talking about on north Yonge Street? I would like to check into that.

Mr. Brown: It is near Fairlawn.

Mr. Reville: Next time you go by, call me up and tell me the address.

Mr. Brown: The contractor's name is peculiar. His name is Fish, funnily enough.

Mr. Reville: Susan Fish?

Mr. Brown: Fish is the contractor, the one who is building it. It is a big building--

Mr. Davis: (Inaudible)

Mr. Brown: I wish this guy would cut his head off.

Mr. Reville: Wait a minute. That is a bit drastic.

The Vice-Chairman: We may have a consensus here.

Mr. Brown: It is a high-rise, a large building. I am not sure for the moment whether it is a senior citizens' building. The board outside has the name of the Minister of Housing on it; so my presumption is that it is being built with the government's money.

Mr. Reville: I would like to check into it. Next time you go by, call me up.

Mr. Brown: I am not sure whether this is a senior citizens' building. I only hope and pray they will make affordable rents and not inflated rents. I know of many cases and can name so many where it has been a senior citizens' building, but the idea of affordable rents--in the long run, there were inflated and very high rents. The people came to me and were crying that they could not afford the rents.



The Vice-Chairman: There are some more questions to be addressed to you, Mr. Brown. Mr. Callahan.

Mr. Brown: You are whom? I have not had the pleasure.

Mr. Callahan: I am Bob Callahan. I am the member for Brampton.

Mr. Brown: What party do you represent?

Mr. Callahan: The Liberals.

Mr. Brown, I enjoyed your presentation and I was not frowning at you. It was just that I was looking at Mr. Reville and happened to turn towards you, and the frown was still there.

I would like to ask you a couple of brief questions. First, were you happy with the way the process worked in past years?

Mr. Brown: What process are you talking about?

Mr. Callahan: Rent review legislation.

Mr. Brown: No, sir.

Mr. Callahan: We have established that.

You agree that the legislation that previously existed was very easy to get around and really did not serve tenants well. Is that not right?

Mr. Brown: It was not a question of being easy to get around. It did not protect tenants one iota. I have had experience from 1975.

Mr. Callahan: The next question is whether you have read Bill 51.

Mr. Brown: Not thoroughly. I have gone through it. I will be frank that, with all my education, there were a lot of things I did not understand.

Mr. Callahan: I would offer you, as I did Ms. Dean, an excellent book that will assist you when you do go through Bill 51. After you have done that--since I enjoyed your presentation, which was made in such a delightful fashion--with the chairman's permission, I invite you to come back to give a second presentation on what you think of the bill.

Mr. Brown: Which book are you referring to?

Mr. Callahan: It is this one. It is an excellent book.

Mr. Brown: I have that.

Mr. Callahan: Did you read that book?

Mr. Brown: I will tell you what. In order to protest, I nearly brought the book in and put a match to it.

Mr. Callahan: But did you read it?

Mr. Brown: I will be frank. I am not here to tell lies. I am a very honest person.

Mr. Callahan: I believe that.

Mr. Brown: This is something like when you go to court. You go to court, you hold your hand up, you touch the Bible and you swear to tell the whole truth and nothing but the truth. Then when you speak to the judge, you tell a million lies. Yes, sir, what is it you want to know?

Mr. Callahan: Did you read this book?

Mr. Brown: I will be frank with you. I have not read it thoroughly because there is a lot I did not understand. I had one of the Metro tenants, legal services to sit down with me and explain all the details, which he has done. To be frank, there is a lot in there which I cannot comprehend.

Mr. Callahan: It is our hope, Mr. Brown, that when this bill is enacted, it will be explained to every tenant and to every landlord in this province in an understandable fashion so we will have the peace and tranquillity, or at least the best attempt at it, that you have asked for.

Mr. Brown: Mr. Callahan, I take your remarks very, very well. I appreciate your remarks too. Since 1975, I have gone to rent review about 50 times and seen the way they behave, the morons. I explained before that our associations and our people are willing to co-operate with the government 100 per cent--whether the landlords will or not I do not know--to make a bill for the satisfaction and benefit of all of us.

Mr. Callahan: Thank you very much, Mr. Brown.

Mr. Brown: Thank you, gentlemen.

The Vice-Chairman: Mr. Brown, there is another question--

Mr. Brown: I beg your pardon.

Mr. Davis: The bad party is going to ask a few questions now.

Mr. Brown: That is Mr. Davis.

Mr. Davis: Mr. Brown, I agree with you that a little bit of laughter does not hurt. However, you are quite correct in that it is one of the most serious matters that this province and any government has addressed, that is, the whole issue of affordable housing. You are quite correct when you state that this bill will do nothing for affordable housing. I have a couple of questions and I thought it interesting that Mr. Callahan suggested that after we passed the bill, we would explain it you. I agree with you, sir, that it is a very difficult bill to understand. I have a couple of questions I would like your opinion on just as a tenant and as a person who has been involved.

Mr. Brown: Yes, sir. I appreciate that.

Mr. Davis: One of the issues is rent equalization. As a tenant, how do you feel about the process of rent equalization, understanding that in a given apartment building, the total rent increase on that building, if you look at the residential complex cost index formula, is about five per cent--5.6 per cent this year? However, the landlord or an individual in the building may appeal. For example, in a particular building, sir, you may be paying \$500 a month, while I am paying \$350 for an apartment unit that is the same. You then go to the rent assessment people and ask for an equalization.

Even though the overall rent is about six per cent to the landlord, you receive a rent increase of two per cent because you are paying more, while I receive an increase of 11.2 per cent because we are going to equalize the rents at somewhere around the halfway mark. How do you feel about that?

Mr. Brown: That is a very good point. If you recollect, at the beginning I said equalization should be eliminated. I will tell you why. You have to take into consideration the people who have lived there many years. I lived in my block for 20 or 25 years. I started with \$185. There are many people who lived there many years ago and invariably when people moved out or were forced out, the landlord stipulated, gave them or instituted inflated rents. Then you had two different scales, but it was legitimate.

If you are going to turn around and say this man is paying \$200 and the other guy is paying \$250, regardless of six per cent, and you can increase this man's rent by 10 or 15 per cent to bring it up to equalization with the other guy's rent, let me give you another argument.

20:20

In 1975, when this Landlord and Tenant Act came in, I went to rent review, and on my own I got down from six per cent to two per cent. That was successive for four years, which means I am paying less than the people who live in my apartment block, who are paying more than me, because lots of new people have come in and they are paying inflated rents.

You are going to tell me that equalization is going to increase my rent by 20 to 25 per cent in order to equalize my rent with theirs? No, sir.

Mr. Davis: I am not telling you that, sir. The government is telling you that in Bill 51.

Mr. Brown: That is my opinion.

Mr. Davis: Okay. The second question is the same kind of question, but I just want your reaction to it. As I read Bill 51, I understand two things probably will happen. The rent increases, although they use the RCCI formula, can be much more substantial than 5.7 per cent; they can go up by 10, 12 or 15 per cent.

Mr. Brown: Three times; not once.

Mr. Davis: Some people in the province could find themselves in financial difficulty in making the rent increase. Conversely, because of illegal rents, a lot of small landlords could lose their investments and their buildings. I am talking about people such as the three or four ladies who came before us this morning, one of whose husbands had died a few years ago and they inherited it.

I also discovered there is another reality. Let us say you and I were in the same building, and I were paying an illegal rent that went up to \$750, and you went through the rent review process and your rent went up to \$750, and in that period of time, whatever time frame it is, we saw together rent increases of 25 and 30 per cent. Because mine is an illegal rent and I take the landlord to the rent review process, I am rolled back to \$350, given the income; but because you went through the process of rent review, you stay at \$750. How do you feel about that as a tenant?



Mr. Brown: I will tell you something. In the first place, I went through the law; so you cannot say I have done anything wrong. It was your law--rather, it was the Tories' law; I beg your pardon. It was the law. I exercised my incentive, which I had every right to do.

You are trying to say to me that you were paying \$700 and you went to rent review and got it down to what I was paying. Never in a million years would you get one cent less, because once anything is up, once anything is high, it never in any circumstances goes down again. Does that answer your question?

Mr. Davis: It answers my question. Thank you.

Mr. Brown: Is there anybody else?

The Vice-Chairman: Thank you, Mr. Brown. Those are all the questions we have for you.

Mr. Brown: I have enjoyed this thoroughly. I want to thank the members of the committee. You are all doing a good job, and I try to do a good job.

Where is my friend over there? He is not there. He is a Liberal. I was going to turn around to him and say that maybe one day we will have an NDP government--

Mr. Reville: Hear, hear.

Mr. Brown: --and maybe we will throw the whole lot of you out.

Mr. Reville: Actually, there are two of us here you do not want to throw out.

Mr. Brown: No. I like you guys; you are gentlemen. Anyway, gentlemen, see that this bill is going to be fair to everybody. We will co-operate. We will work together. We will live in harmony together. We will not have to take guns and shoot each other, and that will be that. Do not do anything like this again.

The Vice-Chairman: Mr. Brown, we are going to have to go on.

Mr. Brown: Okay. I beg your pardon. Let me get all my paraphernalia together.

The Vice-Chairman: The committee members appreciate your presentation and thank you very much.

I call Janine Charland. The committee welcomes you tonight. We are glad to see you here to make your presentation.

JANINE CHARLAND

Ms. Charland: There are just two points. I will be very short. My concerns about the rent registration--

The Vice-Chairman: Excuse me. For the the microphone to pick you up, you had better sit up at the desk.

Ms. Charland: My first concern is about the rent registry, sections 55 and 56. It says in the explanatory notes that "residential complexes that contain six or fewer rental units will be brought into the registry at a later date to be prescribed, although a landlord of such a residential complex may voluntarily file the information in respect of that complex at any earlier time." However, the date when a residential complex containing six or fewer rental units will be brought into the registry is not specified. I understand there is to be an eventual amendment.

My concern is that there is no specification of a date. If landlords are not compelled to file statements containing information prescribed in section 56, it will render it more difficult for a tenant to prove whether a landlord increased the rent by a percentage higher than permitted by the bill. Considering that the vacancy rate in Metro is only 0.3 per cent, it becomes more and more difficult for tenants, especially residents with limited incomes and limited financial resources, to find an affordable rental unit in a very tight housing market. Some landlords, appreciating the actual conditions of the housing market, might take advantage of this flaw in the bill.

Another concern is about the Residential Rental Standards Board, section 14. Here again the date is not specified or fixed for establishing the maintenance standards board. There is not much detailed information provided in the bill concerning the establishment and method of operation. These are my two real concerns.

The Vice-Chairman: Are there any questions? Probably part of what is missing comes under the regulations, and perhaps Mr. Church can help.

Ms. Charland: Do you mean an actual amendment?

Mr. Church: No. It will be a regulation under the act in both instances. In the case of the registration of smaller units, it is our intention to begin registering smaller units immediately but not to force the registering of smaller units until we have the administrative organization in place to make it work. It will be a very large job well beyond our resources now. Second, those buildings are the ones for which we have the least information about legality or illegality, and virtually every one of them will have to be researched when we register them.

Ms. Charland: This is another reason to put that into the rent registry, and that is why I do not understand why it is not specified. It is one more reason to justify this.

Mr. Church: It is not a question of not specifying for the purposes of undue delay. It is not specified to allow us to proclaim it as soon as we are administratively ready. It is our intention to move as quickly as we can to get to those 300,000 landlords. It is almost 95 per cent of landlords, but I think it is only about--somebody help me--15 to 20 per cent of units.

Mr. Reville: No; wrong.

Mr. Church: It is 300,000 units; that is 30 per cent of units. It is about 90 per cent of landlords and 30 per cent of units.

Mr. Reville: It is 446,000, Mr. Church, and I am going to have to arm-wrestle.

Ms. Charland: Can you repeat what you said at the end?

Mr. Church: Yes. It is about 90 per cent of landlords, but a much smaller percentage of units in that category; so we are putting our immediate compulsory rules in place for the vast majority of units that are in the larger buildings. It is because we can get to them and because we can sort out the various bugs in the system while we are getting to them, making sure they are registered and legal; then we can on to the smaller units.

20:30

It is not an intention of the government to delay unduly. It fully expects to proceed very quickly, but it will take many years to register all the landlords. We see it as being very similar to the period during prohibition when the revenueurs were going out to catch the people with illegal stills. It is going to be somewhat more difficult than putting a camel through the eye of a needle to get some of these people in. Therefore, we do not want to lock ourselves into a date we cannot meet.

Ms. Charland: Is there a question of the amount of resources you want to put into the rent registry? Is that one aspect?

Mr. Church: Partly it is resources and partly it is developing the systems that will enable us to do it effectively.

Ms. Charland: If I have understood, it has been quite limited up to now. From my point of view, if it is needed, if that is the problem, why not provide more resources if it is a question of the amount of resources you want to allow for it?

Mr. Church: It is our view that, given what we know now, we simply could not do it. It is beyond the capacity, short of making enormous diversions from other programs to do it. The government will be spending \$20 million per year as it is on the program to get it into place. I do not want to get too far into other programs that would have to be changed, but it is a question of priorities and policy decisions.

Ms. Charland: Okay.

Mr. Church: On the other issue of the maintenance board, you are quite right. The part of the legislation now is broadly enabling. There will be some amendments introduced, but the principal teeth to the maintenance board are in the process of being developed by the Rent Review Advisory Committee. It will be recommending to the government the regulations that should be put in place to give this enabling legislation the kind of teeth you are requesting. It is the intention of at least the tenants on the Rent Review Advisory Committee, and some would be willing to believe the landlords as well--some would not--that the maintenance board will have the kind of teeth you are looking for to ensure that it meets the best minimum standards.

The Vice-Chairman: Do any members of the committee have some questions?

Mr. Davis: Mr. Church, you indicated the present system will cost \$20 million, but the indication is that you are prepared to register those other landlords. The lady has asked why you cannot do it right now. For argument's sake, what would it cost you to put that on stream right away?

Mr. Church: I do not have any idea. Any landlord who comes in voluntarily can be registered within our budget. There is no difficulty in



registering people who are willing to register. I do not think that is what is concerning this lady or most of the tenants who are worried about the small landlords who basically duck. First, we cannot find them; the units may be illegal. Second, when we do find them, we are going to have to take them through a fairly long legal process to get them registered. Third, the probability of their having records that allow anybody to find out whether the rents are legal or illegal is highly questionable.

There is a series of considerable administrative difficulties to be overcome. Essentially, we are saying yes, we will overcome them, but it will be a case of diminishing returns. We will get the big ones in first. Once they are registered, we will work our way down. There is a strong commitment on the government's part to register all rental units. We know we are going to be significantly successful. We are certainly going to exceed the 19 per cent and 15 per cent that other registries have achieved. We are not going to get 100 per cent. Nobody on earth is going to get 100 per cent of any group obeying all the laws, but we will get as close to that as we can get.

The Vice-Chairman: Ms. Charland, do you have a comment on that?

Ms. Charland: In short, it is a political issue. The question is that resources are quite limited, but it tells me there is a rent registry and there is not. It is a mid-way of operating. I do not agree with that. We should put more emphasis and financial and human resources into the rent registry.

Mr. Reville: Can I have a supplementary, Mr. Chairman?

The Vice-Chairman: Yes, Mr. Reville. Mr. Davis, were you finished?

Mr. Davis: Yes, go ahead.

Mr. Reville: We have heard that by one estimate a third to a half of landlords charge illegal rents. Is there any estimate of how that breaks out? Are those big landlords?

Ms. Charland: I do not know the percentage of illegal rents among buildings with six, five or fewer units--

Mr. Reville: That is what I am trying to find out.

Ms. Charland: Can we discuss whether it is very limited or not?

Mr. Reville: I was going to ask Mr. Church whether they knew whether the illegal rent chargers were mainly small landlords or mainly big landlords.

Mr. Church: It sounds like such a simple question.

Ms. Charland: In those cases, it would be like--sorry, I am cutting you off.

Mr. Church: No, you are the deputant.

Mr. Reville: The answer is important, because it might make a difference as to whom you registered first.

The Vice-Chairman: Let us refer to Mr. Church and see if we can get an answer to that question.

Mr. Church: It is not going to be terribly satisfactory, I am afraid. Yes, I think we can say that the very large buildings to a great extent have rent review orders on them; so we will be able to tell very quickly whether they are legal. Since the large buildings represent the majority of the total stock as far as the units are concerned, whether there are more or less illegal rents, they are catchable if they are illegal. We can talk about the big ones with reasonable confidence.

With the middle-sized ones there is a fair measure of confidence because of the existence of active tenant organizations. There is a fair bit of information in relation to the registry because people are conducting these buildings as a business and actually have records. Again, although I cannot answer definitively whether they are more or less illegal, to the extent that they are, we can catch them.

With the very small ones, it is anybody's guess. We hear all kinds of opinions. A lady who was here earlier said 75 per cent. Somebody in front of Thom said 15 per cent. It is a bundle and most of them do not have records.

Ms. Charland: I have seen many immigrants. I knew of one case, when I was 16, of illegal rent; there was one family unit in the basement. I suppose the majority of illegal rents are in basements. In another case, the rental housing unit is a one-unit housing that is rented, but it could be shared by four or five students and it becomes affordable--or two units, a duplex. I do not think it would be easy to find out. You can hide. The illegal rent for a basement unit could be hidden, but I do not think that is a big percentage.

The Vice-Chairman: Any further questions?

Mr. Reville: No, thank you.

Ms. Charland: There should be special protection to render it easier for tenants to go through the legal procedures if there is abuse of rent increase.

Mr. Callahan: I gather, Mr. Church, although it might take a longer time to catch up on the ones that are not voluntarily registered or that you do not find out about, that tenants who move into accommodation are entitled to call the registry. If it is not listed, they can then contact the ministry and arrange to have that party registered.

Mr. Church: They can request registration, but it is not mandatory until we proclaim a date to make it mandatory for the smaller units, the fewer than six units.

The Vice-Chairman: It appears those are all the questions we have of you, Ms. Charland. We thank you very much for bringing your concerns before us tonight. The committee will be considering them. You brought up an interesting point about the smaller units and the speed with which this legislation deals with registering them.

Ms. Charland: I just wish they were included.

The Vice-Chairman: We will be discussing that. Thank you very much.

According to our agenda, there are no other proceedings this evening. Since we had a 10 o'clock evening last night, we will adjourn until Tuesday at 1 p.m.

The committee adjourned at 8:39 p.m.













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